REPORT | FOURTH SESSION | THIRTY-NINTH PARLIAMENT

Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints

Progress Reported in Implementing the 2009 Braidwood Report Recommendations and Processing Police Complaints

LEGISLATIVE ASSEMBLY
PROVINCE OF BRITISH COLUMBIA

MARCH 2013

March 7, 2013

To the Honourable
Legislative Assembly of the
Province of British Columbia

Honourable Members:

I have the honour to present herewith the Report of the Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints.

Respectfully submitted on behalf of the Committee,

Murray Coell, MLA
Chair

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Composition of the Committee

Members

Murray Coell, MLA	Chair	Saanich North and the Islands
Kathy Corrigan, MLA	Deputy Chair	Burnaby-Deer Lake
Ron Cantelon *(from January 16, 2013)*		Parksville-Qualicum
Eric Foster, MLA		Vernon-Monashee
Gordon Hogg, MLA *(from September 17, 2012)*		Surrey-White Rock
Leonard Krog, MLA		Nanaimo
John Slater, MLA *(from September 17, 2012 to January 16, 2013)*		Boundary-Similkameen
Ben Stewart, MLA *(to September 17, 2012)*		Westside-Kelowna
Dr. Moira Stilwell, MLA *(to September 17, 2012)*		Vancouver-Langara
Ralph Sultan, MLA *(to September 17, 2012)*		Vancouver-Capilano
Joe Trasolini, MLA		Port Moody-Coquitlam

Clerk to the Committee

Susan Sourial, Committee Clerk

Research Staff

Josie Schofield, Manager, Committee Research Services
Assisted by Byron Plant, Gordon Robinson;
Matthew Cleeves and Dirk van Duyn *(to December 31, 2012)*

Terms of Reference *(adopted May 31, 2012)*

On May 31, 2012, the Legislative Assembly agreed that a Special Committee be appointed to examine, inquire into and make recommendations with respect to specific matters pertaining to the *Police Act [RSBC 1996] Chapter 367.* In particular, pursuant to section 40.1 of the *Police Act*, the Special Committee shall conduct a review before December 31, 2012 regarding:

(a) the implementation of the recommendations contained in the 2009 report "*Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons*" by Thomas R. Braidwood, Q.C., respecting

  (i) the use of conducted energy weapons by officers in the performance of their duties and the exercise of their powers, and

  (ii) the training of officers in the use of conducted energy weapons;

(b) the scientific research into the medical risks to persons against whom conducted energy weapons are deployed.

The Special Committee must submit a report respecting the results of its review, within one year of the date that the Committee is appointed.

And further, pursuant to section 51.2 of the *Police Act*, the Committee must, before January 1, 2013 conduct an audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the *Police Act* and must submit a report to the Legislative Assembly respecting the results of the audit to the Legislative Assembly within one year after the date of the appointment of the Special Committee.

And further, that the Special Committee so appointed shall have all the powers of a Select Standing Committee and is also empowered to

a) to appoint of their number, one or more subcommittees and to refer to such subcommittees any of the matters referred to the Committee;

b) to sit during a period in which the House is adjourned, during the recess after prorogation until the next following Session and during any sitting of the House;

c) to adjourn from place to place as may be convenient; and

d) to retain such personnel as required to assist the Committee;

and shall report to the House as soon as possible or following any adjournment, or at the next following Session, as the case may be; to deposit the original of its reports with the Clerk of the Legislative Assembly during a period of adjournment and upon resumption of the sittings of the House, the Chair shall present all reports to the Legislative Assembly.

Work of the Committee

On May 31, 2012, the Legislative Assembly of British Columbia adopted a motion creating the Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints (the Committee).

The first part of the Committee's terms of reference focused on the June 2009 report of the Braidwood Commission, *Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia*. It involved a follow-up review of the implementation status of the report's 19 recommendations, as well as a review of the scientific research into the medical risks to persons against whom conducted energy weapons are deployed. The second part of the mandate was an audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the *Police Act*.

On July 18, 2012, the Committee met in Victoria and elected Murray Coell, MLA as the Chair, and Kathy Corrigan, MLA as the Deputy Chair. The terms of reference were reviewed, and a draft business plan was adopted that included consultations with both expert witnesses and members of the public. At this meeting, the decision was made to work on both parts of the Committee's mandate concurrently.

Part 1: Follow-up Review of 2009 Braidwood Report Recommendations

Technical Briefings

For Part 1, the Committee held six public meetings to receive briefings from law enforcement regulators; Commissioner Thomas R. Braidwood, QC; former Solicitor General Kash Heed, MLA; the BC Civil Liberties Association; a criminologist; and several medical experts.

Public Consultation

The Committee's public consultation process was launched on October 3, 2012 with a media release and province-wide newspaper advertising. British Columbians were invited to submit their ideas in writing via the Committee's website, by e-mail or fax, or to make an oral presentation at a public hearing.

Due to the limited number of submissions received, the deadline for public input was extended from the original date of November 2, 2012 to November 23, 2012. By the end of the consultation process, the Committee had received seven written submissions related to Part 1: one from the BC Police Association and six from private citizens (Claire Marie Belanger, Tara Hammond, Dennis Jaeger, Ivan Scott, Rein Vasara, Blair Yochim). The public hearing scheduled for October 23, 2012 was cancelled due to a lack of registrants.

Part 2: Police Complaint Audit

At a meeting on August 21, 2012, the Committee adopted a motion to engage the Office of the Auditor General of British Columbia to conduct the audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the *Police Act*.

At a further planning meeting on September 5, 2012, the Committee approved an audit budget and work plan submitted by the Office of the Auditor General.

Following a briefing by Ministry of Justice officials on the historical context for the audit, senior staff from the Office of the Auditor General presented a preliminary report on the audit findings at an *in-camera* meeting on November 26, 2012. The Auditor General presented the audit opinion and accompanying summary report publicly to the Committee on December 3, 2012. Comments were provided that same day by the Police Compl[illegible] Commissioner and on December 10, by the BC Police Association.

Meetings Schedule

July 18, 2012	Organization Meeting	Victoria
August 21, 2012	Planning Meeting	Victoria
September 5, 2012	Planning Meeting	Victoria
October 9, 2012	Briefings (Part 1)	Victoria
October 15, 2012	Briefings (Part 1)	Victoria
October 16, 2012	Briefings (Part 1)	Victoria
October 22, 2012	Briefings (Part 1)	Victoria
November 19, 2012	Briefings (Part 1)	Vancouver
November 26, 2012	Briefings (Part 2)	Victoria
December 3, 2012	Briefings (Part 2) Deliberations	Victoria
December 10, 2012	Briefing (Part 2) Deliberations	Victoria
January 21, 2013	Deliberations	Victoria
January 28, 2013	Briefing (Part 1) Deliberations	Victoria
February 4, 2013	Deliberations Adoption of Report	Victoria

Introduction

Underpinning this committee inquiry is the belief that in a functioning democracy based on the rule of law, there must be effective civilian oversight of police conduct to uphold public trust in law enforcement agencies and the complaint process. At the same time, committee members believe our society has a duty to ensure that frontline police officers who are legally authorized to use force have the appropriate tools to do their job and protect themselves and the public.

Since 1999, the tool kit of police forces in British Columbia has included a conducted energy weapon (CEW) to be deployed in a volatile situation where use of force is necessary to control or subdue a person who is resisting police commands and/or posing a threat to public safety. On the use-of-force continuum, a CEW (commonly referred to as a Taser) falls into the category of an intermediate (or less-lethal) weapon, defined as a weapon whose normal use is not intended or likely to cause serious injury or death.

However, the tragic CEW-related death of Robert Dziekański at Vancouver International Airport on October 14, 2007 alarmed the public, attracted intense media scrutiny and prompted a two-phase inquiry in British Columbia conducted by retired justice Thomas R. Braidwood,[1] and an investigation undertaken by a committee of the Canadian House of Commons.[2]

Given the high profile of the issue, committee members anticipated at the start of our inquiry that the controversial topic of CEW use and the process for filing complaints about police conduct would be of considerable interest to British Columbians concerned about police accountability. Therefore we were surprised by the relatively low response to our call for public input, reported on in the previous section.

After listening to the testimony of witnesses, it has become clear to us why the level of citizen engagement was relatively low. We heard from Commissioner Braidwood that the recommendations of his June 2009 report have been implemented satisfactorily. The BC Civil Liberties Association also indicated that it was pleased with the progress made by the provincial government to implement the recommendations. In like fashion, the Auditor General reported that police complaints in British Columbia are being addressed in compliance with Part 11 of the *Police Act*. From our perspective, these two outcomes of our inquiry are reassuring and will hopefully contribute, in a modest way, to fostering public trust and confidence in law enforcement agencies and the police complaint process.

In line with our dual mandate, our report is divided into two parts. Part 1 contains a summary of our follow-up review of the 2009 Braidwood report recommendations on restricting CEW use in British Columbia. Part 2 reports on the police complaint audit commissioned by the Committee.

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[1] Thomas R. Braidwood, Commissions of Inquiry: *Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia*, Phase 1 Report (June 2009); and *Why? The Robert Dziekański Tragedy*, Phase 2 Report (May 20, 2010).

[2] House of Commons Canada, *Study of the Conductive Energy Weapon-Taser,* Report of the Standing Committee on Public Safety and National Security (June 2008).

PART 1:
FOLLOW-UP REVIEW OF 2009 BRAIDWOOD REPORT RECOMMENDATIONS

Context

A conducted energy weapon (CEW) is designed to be less lethal than a firearm in order to reduce the risk of serious injury or death. When discharged, the weapon uses a conducted electrical current in order to incapacitate a person, or to generate compliance through pain.

Since arriving in the US marketplace in the 1970s, the use of CEWs has expanded worldwide. In Canada, a CEW has been prescribed as a prohibited weapon under the *Criminal Code* since December 1, 1998.

Independent municipal police departments in British Columbia were authorized to use CEWs in 1999, followed by the RCMP and BC Sheriff Service Division (2001), Corrections Branch (2003), and transit authority police (2007). The only brand of CEW approved for use by law enforcement agencies in BC is manufactured by TASER International, Inc., based in Scottsdale, Arizona. Currently officers use the TASER X26.

Following the introduction of CEWs in the province, anecdotal reports circulated of front-line police officers using these weapons in increasingly low-risk encounters. Concerns were also expressed about the safety of CEWs following media reports of Taser-related deaths – one in Burnaby in April 2003 (Terry Hanna), and another in Vancouver in 2004 (Robert Bagnell).[3]

The Bagnell case was examined as part of an inquiry undertaken by the Office of the Police Complaint Commissioner (OPCC) to investigate emerging concerns regarding police use of Tasers in BC. The final report issued in June 2005 ruled out blanket prohibitions and concluded that the reasonableness of any use of force will always be determined by situational factors.[4]

The death of Robert Dziekański at Vancouver International Airport on October 14, 2007, after RCMP officers used a CEW to subdue him, proved to be the catalyst for provincial and federal action. This tragic incident was captured on cellphone video and received extensive national and international media coverage, prompting calls for a moratorium on the use of CEWs.

In November 2007, BC's Minister of Public Safety and Solicitor General announced that a public inquiry would be conducted. On February 18, 2008, a commission of inquiry was established with a dual mandate: to review CEW use by police in BC (phase 1), and to investigate the circumstances leading to the death of Robert Dziekański (phase 2). A retired judge, Thomas R. Braidwood, QC, was appointed as Commissioner.

Commissioner Braidwood's phase 1 report, *Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia*, was released in June 2009. It contained 19 recommendations on a variety of topics that are presented below:

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[3] Amnesty International, *Canada: Excessive and lethal force?* November 2004, pp. 6, 8.
[4] OPCC, *Taser Technology Review, Final Report*, OPCC File No. 2474, June 14, 2005, p. 13.

2009 Braidwood Report Recommendations

Seriousness of the matter threshold

1. *I recommend that officers of provincially regulated law enforcement agencies be authorized to deploy a conducted energy weapon only in relation to enforcement of a federal criminal law.*

Subject behaviour threshold

2. *I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon unless the subject's behaviour meets one of the following thresholds:*

- *the subject is causing bodily harm; or*
- *the officer is satisfied, on reasonable grounds, that the subject's behavior will imminently cause bodily harm.*

3. *I recommend that, even if the threshold set out in Recommendation 2 is met, an officer be prohibited from deploying a conducted energy weapon unless the officer is satisfied, on reasonable grounds, that:*

- *no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and*
- *de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.*

Emotionally disturbed people

4. *I recommend that the Ministry of Public Safety and Solicitor General approve a curriculum for crisis intervention training comparable to that recommended by presenters at our public forums, and require:*

- *that it be incorporated without delay in recruit training for officers of provincially regulated law enforcement agencies; and*
- *that all currently serving officers of provincially regulated law enforcement agencies satisfactorily complete the training within a time frame established by the ministry.*

5. *I recommend that officers of provincially regulated law enforcement agencies, when dealing with emotionally disturbed people, be required to use de-escalation and/or crisis intervention techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.*

Subject self-harm

6. *I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon in the case of subject self-harm unless:*

- *the subject is causing bodily harm to himself or herself; or*
- *the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm to himself or herself.*

Multiple deployments

7. *I recommend that officers of provincially regulated law enforcement agencies be prohibited from discharging an electrical current from a conducted energy weapon on a subject for longer than five seconds, unless the officer is satisfied, on reasonable grounds, that:*

- *the five-second discharge was not effective in eliminating the risk of bodily harm; and*
- *a further discharge will be effective in eliminating the risk of bodily harm.*

Requesting paramedic assistance

8. *I recommend that paramedic assistance be requested in every medically high-risk situation, preferably before deployment of a conducted energy weapon or, if that is not feasible, then as soon as practicable thereafter. Medically high-risk situations include, but are not limited to:*

- *deployment in probe mode across the subject's chest;*
- *deployment in probe mode for longer than five seconds;*
- *deployment in any mode against:*
    - *an emotionally disturbed person;*
    - *an elderly person;*
    - *a person who the officer has reason to believe is pregnant; or*
    - *a person who the officer has reason to believe has a medical condition that may be worsened because of the deployment (e.g., heart disease, implanted pacemaker or defibrillator, etc.).*

Automated external defibrillators

9. *I recommend that whenever a conducted energy weapon is assigned to an officer of a provincially regulated law enforcement agency, that the officer also have an automated external defibrillator readily available for use.*

Provincial regulation

10. *I recommend that the provincial government set province-wide standards relating to conducted energy weapons, including, but not necessarily limited to:*

- *which conducted energy weapon models are approved for use;*
- *the circumstances in which a conducted energy weapon may, or must not, be used;*
- *qualifications to begin training as an operator, instructor, or master trainer;*
- *the curriculum for operator, instructor, and master instructor training programs, including content, duration, pass/fail level, remedial training, and re-certification;*
- *mandatory reporting of each conducted energy weapon use, including what information must be reported and in what form; and*
- *periodic province-wide analysis of usage reports, with mechanisms to ensure that the results of such analysis inform policy development and training.*

Training and re-training

11. *I recommend that the Police Academy be responsible for training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, as an integral component of use-of-force training generally, and that training be conducted in accordance with the policies established by the provincial government, taking into consideration the medical risks discussed in this Report.*

12. *I recommend that the province's standards relating to the curriculum for operator, instructor, and master instructor training and re-training prohibit a trainer's or trainee's exposure to the electrical current of a conducted energy weapon.*

Certification of conducted energy weapons

13. *I recommend that the Attorney General ask the federal minister responsible for administration of the Hazardous Products Act:*

- *to add conducted energy weapons to the schedule of restricted products under that Act; and*
- *to make regulations prescribing the circumstances and conditions under which such weapons may be imported into, and sold in, Canada.*

Periodic testing of conducted energy weapons

14. *I recommend that every conducted energy weapon used by officers of provincially regulated law enforcement agencies be periodically tested for electrical output, according to a testing protocol approved by an independent body and according to a schedule established by the Ministry of Public Safety and Solicitor General, and that the test include, but not necessarily be limited to:*

- *the number of pulses per second;*
- *the duration of each pulse; and*
- *the maximum current during each pulse.*

Testing after a serious injury or death

15. *I recommend that whenever there is a serious injury or death proximate to use of a conducted energy weapon by an officer of a provincially regulated law enforcement agency, the weapon be withdrawn from service and its electrical output be tested in accordance with, and for the matters referred to in, Recommendation 14.*

Reporting on conducted energy weapon use

16. *I recommend that the provincial Ministry of Public Safety and Solicitor General, without delay:*

- *develop a province-wide conducted energy weapon incident report form that will capture enough information to permit the type of analysis undertaken by this Commission, as reported in Part 7 of this Report;*
- *require that the report form be completed whenever an officer of a provincially regulated law enforcement agency deploys a conducted energy weapon, even if deployment is limited to display mode only;*
- *develop a province-wide electronic system for the reporting and analysis of conducted energy weapon incidents;*

- *require that every completed report form be forwarded without delay to the ministry, and that the data on the report form be entered into the province-wide electronic system;*
- *review reported incidents, at least quarterly, for the purposes of informing the development of policy and training;*
- *publish, at least annually, a detailed report on conducted energy weapon usage by provincially regulated law enforcement agencies; and*
- *require each provincially regulated law enforcement agency:*
    - *to implement a "sign out" policy whenever a conducted energy weapon and/or a probe cartridge is issued to an officer;*
    - *to designate a specific employee to download the data from every conducted energy weapon at least once every month (matching the data relating to each deployment against the related incident report), and to report any discrepancies to that employee's supervisor;*
    - *to review the use of conducted energy weapons by its own officers at least quarterly, to determine compliance with policy; and*
    - *to report at least annually, to the responsible provincial minister, and in the case of a municipal police department to the police board, on the agency's use of its conducted energy weapons.*

Further research

17. *I recommend that the Minister of Public Safety and Solicitor General encourage the minister's federal, provincial, and territorial counterparts to develop and fund a national research program for conducted energy weapons that will promote independent, science-based, and peer-reviewed research that attaches priority to:*

- *quantifying the medical risks associated with conducted energy weapon use;*
- *identifying the highest-risk subjects;*
- *identifying the highest-risk external circumstances; and*
- *developing recommendations for best practices, including but not limited to:*
    - *deployments in probe mode across the subject's chest;*
    - *multiple deployments; and*
    - *emotionally disturbed people.*

Future review

18. *I recommend that the Police Act be amended to require that a special committee of the Legislative Assembly, or an individual appointed by the Legislative Assembly, begin a comprehensive review of conducted energy weapons within three years after this Report is made public and submit to the Legislative Assembly, within one year after beginning the review, a report that includes, but is not necessarily limited to:*

- *the extent to which the recommendations contained in this Report have been implemented;*
- *new information about the medical risks associated with the use of conducted energy weapons, including new models of weapons that have become available since this Report was written; and*
- *recommendations relating to the circumstances in which it is appropriate to use conducted energy weapons, and to training of officers in the use of such weapons.*

RCMP compliance with provincial regulation

19. *I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, policies, and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.*

Regulators' Responses to 2009 Braidwood Report

The provincial government responded positively to the 19 recommendations of the 2009 Braidwood report. One amendment to the *Police Act*, effective June 3, 2010, addressed recommendation #18, "Future review". Section 40.1 was added to the *Act* requiring that a special committee of the Legislative Assembly be appointed before December 31, 2012, to conduct a review of: (i) the implementation of Braidwood's recommendations respecting the use of CEWs by officers and the training of officers in the use of CEWs (section 40.1(2)(a)) and (ii) the scientific research into the medical risks associated with CEW use (section 40.1(2)(b)).

On May 31, 2012, the Legislative Assembly appointed the Special Committee to conduct this follow-up review of Commissioner Braidwood's recommendations. As part of this review, senior officials representing the Police Services Division, the Adult Custody Division, the BC Sheriff Service Division, and the RCMP "E" Division - British Columbia were invited to report to the Committee on the progress made to date. Detailed summaries of their individual responses to the 2009 Braidwood report recommendations are provided in Appendices A-D.

Police Services Division, Ministry of Justice

> *"It is part of my responsibilities and the responsibilities of the Solicitor General to ensure that the public have trust and confidence in the police and the actions they undertake. We recognize that these challenges are not always easy to meet. But it's our view that the changes that were implemented as a result of Mr. Braidwood's review, and subsequently the development of the Independent Investigations Office, have contributed greatly to meeting this responsibility."*
> (Clayton J.D. Pecknold, Assistant Deputy Minister and Director of Police Services, October 9, 2012 meeting)

Located in the Policing and Security Programs Branch of the Ministry of Justice, the Police Services Division (PSD) oversees policing and law enforcement in British Columbia pursuant to the *Police Act*. PSD is the lead regulatory agency for the 11 independent municipal police departments, one First Nations-administered force (Stl'Atl'Imx), and South Coast BC Transportation Police Authority.

A delegation of PSD officials, headed by Clayton J. D. Pecknold, Assistant Deputy Minister (ADM) and Director of Police Services, appeared before the Committee on October 9, 2012 to discuss the use of CEWs in policing and the Division's response to the 2009 Braidwood report.

The PSD submission summarized the actions taken during the past three years to implement Commissioner Braidwood's recommendations. This multi-phase implementation project consisted of immediate actions via policy directives and legislative reform. Issues falling under federal jurisdiction were addressed through communications with Ottawa.

Immediate Actions: Policy Directives

The immediate actions undertaken to implement the 2009 Braidwood report recommendations consisted of several policy directives to police agencies in BC, including the RCMP, regarding threshold of use for CEWs, use-of-force reporting, and CEW testing:

Threshold and circumstances of use for CEWs (Recommendations #1-3, 5-8): Effective July 23, 2009, the first directive addressed recommendations #1-3 and #5-8 by establishing a higher threshold for using a conducted energy weapon. Then Solicitor General Kash Heed directed police agencies to instruct their officers that CEWs were only to be deployed under the circumstances specified by Commissioner Braidwood.

Reporting on conducted energy weapon use (Recommendation #16): Effective September 1, 2009, PSD directed independent municipal police forces to submit to the Division a copy of all use-of-force reports, not just those pertaining to CEW deployments. The ADM obtained a commitment from the Deputy Commissioner, RCMP "E" Division to provide the same.

In 2009, PSD facilitated the implementation of a detailed and standardized use-of-force report form that was under development by the police, referred to as the subject behaviour-officer response (SBOR) report. In August of 2009 the ministry directed police agencies to complete SBOR forms for all CEW displays and discharges, as well as specific uses of force. Also, in response to the recommendations, PSD developed an in-house database known as the BC force incident database (BCFID) to house the SBOR data provided to the Division.

The Police Services Division has monitored the overall trends in CEW usage by police from the aggregate data since 2007. In December 2012, PSD reported to the Committee that the pattern of decreases in CEW discharges since 2007 is similar across all BC police agencies. For the RCMP, the frequency of CEW discharges decreased by 83 percent from 2007 (390) to 2011 (65). Independent municipal agencies' discharges decreased by 92 percent over the same time period (from 250 to 20), for an overall decrease of 87 percent in all police agencies.[5]

Periodic testing of CEWs (Recommendation #14): In December 2008, the Solicitor General directed that all CEWs acquired by police, sheriffs and corrections officers prior to January 1, 2006 be pulled from service and submitted for testing to ensure that the CEWs generated electrical currents consistent with the manufacturer's specifications. This testing was completed in April 2009. Testing conducted on CEWs purchased after 2006 was completed by May 2010.

Subsequently, to ensure that appropriate testing of CEWs continues to take place and to address Commissioner Braidwood's recommendation, PSD established standards that address the schedule of testing after the CEW was acquired and testing protocols, including the requirement to conduct

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[5] Follow-up correspondence from Clayton J.D. Pecknold, ADM and Director of Police Services, Policy and Security Programs Branch to Mr. Murray Coell, MLA, Chair, Special Committee, December 6, 2012

testing independent of the manufacturer. In December 2012, PSD reported to the Committee that the provincial policing standard for CEW testing has a safety parameter beyond the manufacturer's specifications. This parameter applies to every single pulse and is part of the testing procedure developed by the Carleton University working group to support the national Conducted Energy Weapons Strategic Initiative (see page 12). The addition of a "maximum monophasic charge" is to ensure that CEW output is within safety boundaries based on a 2007 International Electrotechnical Commission report.[6]

CEW testing after a serious injury or death (Recommendation #15): Effective December 22, 2009, the Solicitor General directed all police agencies to withdraw a CEW immediately from service and ensure testing is performed whenever serious injury or death results proximate to use of a CEW. Further, the agencies were advised that MPB Technologies in Ottawa was the only appropriate independent laboratory capable of testing the weapon's electrical output.

Legislative Reform: *Police Act* Amendments

In addition to the policy directives described above, legally binding provincial standards for police were established via legislative reform.

Provincial regulation (Recommendation #10): Amendments to the *Police Act* gave the Director of Police Services the authority to set legally binding standards for all police in the province, including the RCMP, with respect to police training, the use of force, places of detention and equipment and supplies to be used for policing and law enforcement. Delayed coming-into-force dates were set for these amendments to allow time for Ministry of Justice staff to consult with stakeholders on the content of these standards. With respect to that consultation, PSD established the Braidwood Recommendations Implementation Committee (BRIC) that included representatives from policing, Public Safety Canada, corrections, sheriffs, mental health and addiction agencies, civil liberties groups, First Nations and the Office of the Police Complaint Commissioner, as well as police boards, police unions and police training academics.

From the Division's perspective, BRIC was a highly successful initiative, establishing common ground among stakeholders and gaining acceptance of proposed provincial policing standards and training initiatives. In fact, PSD intends to use a similar model for all police standards to be developed in the future. The standards developed in consultation with BRIC received ministerial approval in late 2011, with most standards coming into effect January 30, 2012. They were made public through the then Ministry of Public Safety and Solicitor General's website.

CEW use:
Seven standards pertain directly to Braidwood recommendations around CEW use. They are: intermediate weapon and restraint approval process; CEW threshold and circumstance of use;

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[6] Follow-up correspondence from Clayton J.D. Pecknold, ADM and Director of Police Services, Policy and Security Programs Branch to Mr. Murray Coell, MLA, Chair, Special Committee, December 6, 2012.

approved CEW models; internal CEW controls and monitoring; medical assistance to CEW discharges; CEW operator training; and crisis intervention and de-escalation training.

Training initiatives:
In response to recommendations related to police training, PSD developed two training courses that police agencies are required to complete through the associated standards. Both courses were launched in January 2012.

The standard for training requires that the BC CEW operator course be delivered by a use-of-force instructor certified by the Justice Institute of BC Police Academy or equivalent. The ministry is working with the Police Academy as they develop this course and create the required documentation. Until a use-of-force instructor course is provincially approved, existing CEW instructors continue to provide CEW training within their police agencies using the provincially standardized training materials. The RCMP has revised its existing national CEW operator training to reflect BC's standards for officers working in British Columbia.

Use-of-force reporting standard:
PSD has begun work on drafting a provincial policing standard governing use-of-force reporting and data collection to comply with the recommendation that the Province create a standard on mandatory reporting requirements for CEWs. This standard will meet and exceed Braidwood's recommendation by requiring not only mandatory reporting of all CEW use but by also addressing other force applications.

RCMP compliance (Recommendation #19): The issue of whether the RCMP must abide by provincial policing standards was raised by the Province during negotiations with the federal government regarding the new policing contract with the RCMP. PSD obtained a commitment from then Deputy Commissioner Gary Bass, RCMP "E" Division that the RCMP would comply with any standards developed by the Province in response to the recommendations. The RCMP participated in the consultation process leading to the development of CEW-related standards through its membership and participation in BRIC.

The provincial police service agreement, which took effect April 1, 2012, provides for consultation between the Province and the Commissioner of the RCMP when the Province establishes standards and procedures, as well as a commitment from the Commissioner to harmonize RCMP standards and procedures, when appropriate to do so, with those established standards and procedures.

Communications with Ottawa

Two of the 2009 Braidwood report recommendations involved communicating with Ottawa:

Certification of conducted energy weapons (Recommendation #13): Then Solicitor General Kash Heed wrote to the federal Minister of Justice and Attorney General of Canada on July 24, 2009, in support of Commissioner Braidwood's recommendation to add CEWs to the schedule of restricted products under the *Hazardous Products Act*. The matter was referred to the federal Minister of Health, who advised on October 27, 2009, that CEWs are not within the purview of the *Hazardous*

Products Act because they cannot be imported or purchased by consumers; the inclusion of CEWs would represent a significant departure from the scope and purpose of the legislation. The response further advised that CEWs, as prohibited weapons, are already strictly regulated by the *Criminal Code* and the *Firearms Act.*

On May 13, 2010, then Deputy Solicitor General David Morhart wrote to Glenda Yeates, Deputy Minister, Health Canada to request consideration of the recommendation. Ms. Yeates' response of July 21, 2010, reiterated that CEWs are beyond the scope of the *Hazardous Products Act* and are already regulated by the *Criminal Code* and the *Firearms Act.*

As this matter falls within federal jurisdiction, the Province has fulfilled the recommendation by bringing the issue forward to the federal government.

National research program (Recommendation #17): On December 22, 2009, then Solicitor General Kash Heed wrote to the federal Minister of Public Safety Peter Van Loan encouraging his support for the recommendation to develop and fund a national research program for CEWs.

Since 2008, BC has co-chaired a federal/provincial/territorial working group on CEWs. The group has worked with Public Safety Canada to set research priorities regarding CEW research. The national research agenda is being implemented through the Conducted Energy Weapons Strategic Initiative. Work has been initiated on three research projects to: develop a comprehensive test protocol, including refined performance measures for current CEW models; convene a medical panel to report on the state of research regarding the physiological effects of CEWs; and conduct a review of less-lethal weapons approval processes in other jurisdictions.

Adult Custody Division, Ministry of Justice

> *"We do know, as a result of the Braidwood recommendations, that officers or managers may be scrutinizing more the requirements to use the Taser. We're not shy of using it, but it's more making sure that we're meeting all of the tests that have been laid out by Braidwood. But in most cases we use communication as our tool. We use OC spray — or what most people call pepper spray — to a lesser degree. Certainly, the record would show that our use is very limited."* (Pete Coulson, Provincial Director, Adult Custody Division, October 16, 2012 meeting)

The Adult Custody Division (ACD) is located in the Corrections Branch of the Ministry of Justice. It administers nine correctional centres throughout the province, and 99 correctional officers are certified as qualified users of CEWs.

Brent Merchant, Assistant Deputy Minister of the Corrections Branch and Pete Coulson, Provincial Director, ACD appeared before the Committee on October 16, 2012 to discuss the Adult Custody Division's response to the 2009 Braidwood report recommendations.

The Provincial Director reported that ACD implemented CEW usage in April 2003. Since that time, the Division has authorized the use of the device 442 times, but the weapon was only fired

on 34 occasions — about 8 percent of the reported use. In the majority of those cases, the inmates complied with the direction of the officers before the device was even un-holstered, based on the warning that it could and would be used.

The ACD submission focused on how the recommendations have been implemented through changes to Corrections Branch policies and staff training regarding CEW use. These include updates to specific policies to implement recommendations regarding: Subject behaviour threshold (#2-3), Emotionally disturbed people (#4-5), Subject self-harm (#6), Multiple deployments (#7), Requesting paramedic assistance (#8), Automated external defibrillators (#9), Training and retraining (#12), Periodic testing of conducted energy weapons (#14), Testing after a serious injury or death (#15), and Reporting on conducted energy weapon use (#16).

Regarding "Provincial Regulation" (#10), the Corrections Branch is complying with the standard set by the Province regarding which CEW is approved for use. Its adult custody division policy (section 1.4.4) outlines the circumstances in which a CEW may, or must not, be used in accordance with the recommendations of the 2009 Braidwood report.

With respect to CEW operator training (#10-11), the Branch has been given permission to customize CEW operator course materials developed by the Police Services Division. The package of training materials for correctional officers is expected to be ready for review in early 2013. In addition, an initiative is underway to standardize training and recertification across Canada. The Provincial Director serves on the adult institutional subcommittee of a federal/provincial/territorial committee of heads of corrections, which the ADM co-chairs.

To report on CEW use (#16), every time the weapon is authorized and used, an incident report and a use-of-force report are completed. The reports are submitted to the warden prior to being submitted to the Corrections Branch headquarters. The Branch has a leading-edge electronic business intelligence system that captures all the incident data.

BC Sheriff Service Division, Ministry of Justice

> *"Our view is that the conducted energy weapon does present a useful tool on the continuum of use of force, particularly for the maintenance of courthouse security and in cell management. In addition, the Sheriff Service is of the view that the findings and recommendations that flowed from the Braidwood Commission report have significantly improved the use, training and reporting aspects of CEW as a use-of-force tool."* (Kevin Jardine, Assistant Deputy Minister, Court Services, October 16, 2012 meeting)

The Court Services Branch of the Ministry of Justice has three divisions. The BC Sheriff Service Division is responsible for ensuring the safety of all justice system participants, including judiciary, legal counsel, accused and the public, while on court property or during transport. There are approximately 525 sheriffs and deputy sheriffs serving throughout the province today.

Within the Court Services Branch, the ADM of Court Services performs the roles of Chief Administrator of Court Services and Director of Sheriff Services. The Director of Sheriff Services is responsible to the Minister of Justice for the administration of the *Sheriff Act*, the direction of sheriff services generally and the establishment and maintenance of programs for the selection and training of sheriffs and others appointed under the *Act*. The Director is a sheriff by statute.

Kevin Jardine, the ADM of Court Services appeared before the Committee on October 16, 2012 to discuss actions undertaken in response to the 2009 Braidwood report recommendations.

The ADM reported that since 2001, CEWs have been used by sheriffs to control subjects on 148 occasions, 28 of which involved an actual discharge of the weapon. Of the remaining occasions, compliance was achieved prior to the discharge of the CEW. The ADM also reported that the number of CEW deployments has fallen substantially since 2007. This reduction is likely attributable to the higher threshold for CEW use, fewer Tasers being available, and the propensity for sheriffs to look at using other use-of-force options.

The Division participated in the Braidwood Recommendation Implementation Committee that was finalized in January 2012. Although the provisions in the *Police Act* do not directly apply to sheriffs, the recommendations have been adopted, where appropriate, and in almost all cases.

In regard to training for new recruits, a course provided at the Justice Institute of BC covers all levels of use of force, including an introduction to CEW use. Also, as of September 2012, on-line and in-person crisis intervention and de-escalation training has been incorporated into sheriff recruit training. All sheriff staff will need to successfully complete this training by January 2015.

With respect to existing officers, in the past sheriffs were trained in the use of CEWs and could deploy these weapons where and when required. Commencing in January 2013, only designated staff at each courthouse will be authorized as CEW operators. Prior to becoming designated, sheriffs will be required to have successfully completed BC's approved CEW training course, or other provincially-approved training for CEW operators. Currently, the Sheriff Service is in the process of identifying staff to be CEW operators at each court location.

Royal Canadian Mounted Police "E" Division – British Columbia

> *"The 2010 report by the Commission for Public Complaints Against the RCMP said the statistics reflect a growing tendency to use the conducted energy weapon as a means of deterrence or de-escalation without the device being deployed."* (Randy Beck, Assistant Commissioner, Criminal Operations and Core Policing, October 15, 2012 meeting)

The Royal Canadian Mounted Police (RCMP) in British Columbia is referred to administratively as "E" Division. Over 9,500 employees provide municipal, provincial and federal policing in BC. RCMP police services are provided under the provincial police service agreement, a contract signed by the Government of Canada and the Province, effective April 1, 2012.

Randy Beck, Assistant Commissioner, Criminal Operations and Core Policing, appeared before the Committee on October 15, 2012 to present the RCMP "E" Division's response to the 2009 Braidwood report recommendations. He reported that in April 2010, RCMP policy was issued to implement the recommendations regarding the threshold and circumstances of CEW use (#1-3, 5-7), and to address paramedic assistance (#8).

To implement the training recommendations (#4, 10-11), the RCMP in BC has continually evaluated, modified and added to the training and recertification of CEW operators. As of June 2009, CEW operators must recertify annually, via a one-day training course. As of April 2012, 625 RCMP officers were identified as being current or requiring recertification to carry a conducted energy weapon. The objective is to have all 625 users recertified, which will include training in crisis intervention and de-escalation techniques, as well as automated external defibrillator training for those that had not previously received this training in their original new-user course.

The Assistant Commissioner reported that much effort and focus has also been put into development of the new-user course for officers who were previously not certified or trained. The first courses were delivered in July and November of 2011 and April of 2012. In 2011, the CEW instructor course was rewritten simultaneously with the new-user course and implemented in July 2011. This five-day course is focused on the trainers themselves.

Regarding "Training and re-training" (#11), all conducted energy weapon training is delivered in the field at division and at provincial levels. The RCMP training academy in Regina does not deliver CEW training to recruits, but they do receive familiarization to the conducted energy weapon. The RCMP, however, has taken no action to address recommendation #12. While BC has prohibited a trainer's or trainee's exposure to the electrical current of a CEW, no changes are being made to current national CEW policy and training that allows for the voluntary exposure to the CEW during the user and instructor courses.

With respect to "Provincial regulation" (#10), through the BC Director of Police Services, the RCMP has been authorized to utilize the TASER X26, the only approved conducted energy weapon. Currently the RCMP has 836 TASER X26s in use in BC.

The RCMP "E" Division is complying with new provincial regulations for "Reporting on conducted energy use" (#16). Since 2009, the RCMP in BC has implemented strict and comprehensive reporting of each CEW use. It is mandatory in all investigations where there is a use-of-force intervention that it be reported through the subject behaviour-officer response form. The form must be completed when a member is involved in a conducted energy weapon incident. All usage data is reported to the BC Director of Police Services.

The Assistant Commissioner provided statistical information on the actual deployment of the CEW by RCMP officers in BC. In 2011, the RCMP in BC had a total of 160 usages of the CEW (incl. drawn and displayed, contact-stun deployment or probe deployment), down from 169 in 2010, reflecting a consistent downward trend of 6%. In both these years, the majority of subjects were under the influence of drugs or alcohol or inhalants (70% in 2010, and 66% in 2011).

Key Stakeholders' Assessment of Progress Made to Date

The Committee invited five key stakeholders to give their assessment of the progress made to date in implementing the 2009 Braidwood report recommendations. Their evaluation has assisted the Committee to reach its own conclusions. Each presentation is summarized below.

Commissioner Thomas R. Braidwood, QC

> *"I've been very impressed with the Province's response to what I have said."* (Commissioner Thomas R. Braidwood, QC, October 16, 2012 meeting)

Commissioner Thomas R. Braidwood, QC, appeared before the Committee on October 16, 2012 to comment on the implementation of the recommendations in his report, *Restoring Public Confidence: Restricting the Use of Conducted Energy Weapons in British Columbia*, released in June 2009.

Commissioner Braidwood began by praising the Province for adopting standards applicable to CEWs and commending the police community for agreeing to act in accordance with them. From his perspective, this development affirms that in a system of responsible government, civilian authority is in charge of setting the rules that the police have a legal duty to carry out.

Commissioner Braidwood reviewed his recommendations in turn and offered his views as to the extent to which the province's new standards have implemented them. He described "Subject behaviour threshold" (#2), as perhaps the most important of his recommendations because it significantly raises the threshold for use of the weapon and adopts language that can be applied by the officer on the street, who must act quickly. The new standard that has now been set implements this recommendation using virtually identical language, and that is to be admired. The requirement for front-line police officers to consider using a lesser-force option and crisis intervention and de-escalation techniques before using a CEW (#3) has also been acted upon.

Also substantially implemented are the recommendations dealing with training that recognize the importance of de-escalation and/or crisis intervention techniques for dealing with emotionally disturbed people (#4-5). Commissioner Braidwood reported that before his inquiry, the training of police officers was based on the manufacturer's materials that instilled in police officers an erroneous understanding that the use of the Taser was always safe. In his opinion, Mr. Dziekański death can in part be traced to that misunderstanding.

Accordingly, Commissioner Braidwood was "very pleased" that British Columbia has developed its own rules for the circumstances in which a CEW should be used, adding that it is appropriate to use a manufacturer's material on the technical aspect of the weapons but no further. On the basis of the earlier testimony of the Police Service Division's ADM (Oct. 9), it appears to the Commissioner that the use of conducted energy weapons in BC is now more disciplined and that de-escalation techniques are being accepted by the policing community and routinely applied.

Other actions taken by PSD regulators received Commissioner Braidwood's stamp of approval. They included implementation of the recommendations respecting "Multiple deployments" (#7); and "Requesting paramedic assistance" (#8) in medically high-risk situations, with the new standards going beyond this by specifically including deployment in any mode against a child.

Commissioner Braidwood provided an update on the implementation of recommendation #9, requiring that whenever a CEW is assigned to an officer of a provincially regulated law enforcement agency that the officer has an automated external defibrillator (AED) readily available for use. In the new standards, the requirement of an officer having an AED "readily available for use" was met by distinguishing between communities with a population of less or more than 5,000. In the former (served by rural police forces), the officer must have an AED in his or her police cruiser. In the larger urban communities, all on-road patrol supervisors must carry an AED in the event that they are alerted to an incident in which a CEW might have to be deployed and be able to reach the scene before an AED will be needed. In Commissioner Braidwood's opinion, this standard addresses recommendation #9, and he defers to the judgment of those preparing this standard that it will be effective in getting AEDs to the scene.

Commissioner Braidwood was pleased with the implementation of the recommendations requiring the training and retraining of officers of provincially regulated agencies in the use of conducted energy weapons and prohibiting a trainer or trainee's exposure to the electric current of a conducted energy weapon (#11-12).

Regarding the testing of CEWs used by officers of provincially regulated agencies, the Commissioner stated that the new standards comply with his recommendations. At the same time he acknowledged that he did not have any technical expertise to say whether the matters to be tested meet or exceed the matters set out in recommendation #14.

From the Commissioner's perspective, the overarching purpose of the "very detailed and technical" recommendation #16 was to ensure that every use of a CEW in the province was documented and reported. He was very pleased this is underway, and that the RCMP is cooperating on this and other matters. For the Commissioner, another "good thing" is the PSD data showing that there has been an 87 percent decrease in discharge incidents since 2007. But that one statistic alone leaves many questions unanswered: Has the use of service revolvers increased? (He understands they have not.) Have more police officers been injured while restraining violent subjects? Or have officers discovered that other tools in their arsenal, such as training in crisis intervention techniques, have resolved many of these potentially dangerous confrontations without resource to the use of conducted energy weapons? It would appear to be a fruitful area for more research.

In conclusion, Commissioner Braidwood repeated what he had said in his 2009 report – namely, that he is satisfied that on balance society is better off with CEWs in use than without them. He added that he is a strong advocate of giving the police the tools they need to do the job. The challenge facing legislators and the police community is finding a balance so that such weapons are used in appropriate circumstances and not in others. In his considered opinion, what is now being recommended, taught and implemented meets this balance.

BC Civil Liberties Association

> *"On behalf of the organization, I would just like to say congratulations to the Province on implementing in good faith and as comprehensively as possible the recommendations of the Braidwood committee. We say this because we have seen a significant reduction in Taser use in BC."* (David Eby, BC Civil Liberties Association, October 22, 2012 meeting)

During the past decade, the BC Civil Liberties Association (BCCLA) has been a strong advocate for restricting CEW use in the province. It participated in the Braidwood inquiry and the Braidwood Recommendations Implementation Committee.

David Eby, BCCLA Executive Director, appeared before the Committee on October 22, 2012 to comment on the implementation of the 2009 Braidwood report recommendations.

The Executive Director began the presentation by commending the provincial government for its response to the recommendations, adding that the significant reduction in CEW use in BC has not placed police or members of the public at risk. Nonetheless, BCCLA believes there is a case for continuing the close monitoring of Taser use, and the Province should also consider placing a moratorium on deployments against certain people such as children and seniors. In addition, BCCLA strongly encourages government to assume and maintain its supervisory role in terms of the introduction of new technologies – whether weapons, restraint devices, or surveillance systems. This includes independent research and evaluation to identify both benefits and risks.

Kash Heed, MLA

> *"Force-response experts have told me recently that the void represented by an 87 percent reduction in CEW use is being filled largely with physical control tactics and techniques such as grappling, wrestling, joint locks, arms bars, hair control, stuns, strikes, none of which is fully captured in the current reporting system."* (Kash Heed, MLA, November 19, 2012 meeting)

Kash Heed, MLA was appointed Minister of Public Safety and Solicitor General on June 10, 2009 and served in that capacity until April 9, 2010. He was formerly chief constable of the West Vancouver Police Department. Mr. Heed presented to the Committee on November 19, 2012.

Mr. Heed began his presentation by informing the Committee that as Solicitor General, he accepted all the recommendations in the 2009 Braidwood report. In response, on July 23, 2009, he issued a policy directive to all BC municipal police, sheriffs, and correctional officers to severely restrict the use of CEWs. Officers were instructed to use the weapons only to enforce criminal law and in cases where the safety of the public, the officer, or the subject was clearly at risk. He repeated Commissioner Braidwood's conclusion that, if used appropriately, society is better off with conducted energy weapons than without them.

In regard to the reported reduction in CEW use since 2007, Mr. Heed expressed the view that the decline is not necessarily a positive step. The other force-response options being used to fill that void may go unreported, unless someone is injured to the extent that they require medical treatment. He also suggested that unnecessary force may be used in some instances where it may be preferable to deploy a CEW. Anecdotal evidence suggests that police officers are less motivated to carry a CEW for a variety of reasons, including varying levels of understanding of CEW policy, deployment threshold considerations, and a lack of trust. In addition, the new municipal system for subject behaviour-officer response reporting, despite intentions for it to be more user-friendly, remains an awkward, daunting multi-page template. In Mr. Heed's view, the RCMP has developed a faster and more user-friendly form for reporting use-of-force incidents.

BC Police Association

> *"Accountability is both necessary and appropriate. But when it comes to the CEW, I think we have gone beyond the tolerance both for police services and for police officers who prefer to avoid what seems to be inevitable criticism, regardless of the circumstances that led to any deployment."* (Tom Stamatakis, BC Police Association, Submission)

Similar comments to Mr. Heed's were reiterated in a written submission of the BC Police Association that represents over 2,600 front-line police officers across BC. From the Association's perspective, CEWs save lives and prevent serious injuries for both citizens and police officers. However, as a result of the "chilling effect" of Mr. Braidwood's inquiry, and the coverage surrounding the inquiry, many police services are simply choosing not to make the CEW available to officers and many officers are either choosing not to deploy with the CEW, or else they are allowing their certification to lapse and turning in this piece of equipment.

Dr. Robert M. Gordon, Criminologist

> *"The Braidwood policy appears to be seen as best practice, and there are a number of jurisdictions that salute the Braidwood flag when it goes up."* (Dr. Robert M. Gordon, SFU School of Criminology, November 19, 2012 meeting)

Dr. Robert M. Gordon is Professor and Director of the School of Criminology at Simon Fraser University, Vancouver, BC. He is a member of the national Expert Panel on the Medical and Physiological Impacts of CEWs, established by the Council of Canadian Academies (see p. 26).

Dr. Gordon appeared before the Committee on November 19, 2012 to discuss some emerging issues relating to Taser use in Canada. One issue is the value of the original testing protocols that were developed by TASER International, Inc. using large healthy males. Another issue is the impact on different kinds of human subjects under different conditions that can be illustrated by a continuum of safe use and unsafe use. There is also a shadow continuum of political acceptability and unacceptability that may not match safe-unsafe use.

In addition, there are some issues around communicating with individuals who are "just out of it for whatever reason" – those with severe psychiatric disorders, drug-induced psychoses, or those who are extremely agitated and do not understand the commands. It may also be difficult for an officer to tell whether a subject has cardiac problems and so be at the high-risk end of the continuum. Then there are the issues associated with collateral injuries resulting from the use of a Taser, such as dart burns or broken bones from falls, and from the weapon's impact if the subject is holding or close to incendiary material.

Dr. Gordon discussed other issues, including the number of times a weapon may be safely deployed on a subject, and under what conditions. In the case of somebody who is extremely agitated and moving all the time, being hit in the chest area is probably going to result in death, but if the person is hit in the back and standing still, death is not necessarily the result.

Another troublesome issue for Dr. Gordon is the concept of excited delirium. There is confusion and debate over exactly what it means because it is not recognized by the American Psychiatric Association. The concept has been developed by the parallel group of emergency room physicians, an august body that is not concerned, necessarily, with psychiatric disorders. In Dr. Gordon's opinion, when one looks at the way in which the term is being applied, it is difficult to see whether excited delirium is seen as a cause or an effect — in other words, whether it explains a death or the application of a Taser.

In conclusion, Dr. Gordon attributed the declining use of CEWs partly to the BC Braidwood policy being followed nationally and elsewhere. In the Australian state of Victoria, for example, senior police officers have adopted Braidwood policy in its entirety and see it as best practice.

Experts' Opinions on Medical Risks to Subjects of CEW Use

Part 1 of the terms of reference also instructed the Committee to review the scientific research into the medical risks to persons against whom CEWs are deployed (subjects). To carry out this task, seven medical experts were invited to present their opinions on the topic. These opinions are summarized below and do not necessarily reflect the Committee's own views.

Dr. Shaohua Lu, MD FRPC

> *"Excited delirium is a non-medical law enforcement term that invites controversy."* (Dr. Shaohua Lu, October 9, 2012 meeting)

Dr. Shaohua Lu is Addiction and Consult Psychiatrist, Vancouver General Hospital; and Clinical Associate Professor, UBC. He appeared as a witness at the Braidwood Commission in 2008.

Dr. Lu's presentation to the Committee on October 9, 2012 was entitled "Delirium and its Implications in the Use of Conducted Energy Weapons." He presented an overview of delirium, pointing out that this complex condition can be caused by many different medical factors, alone or in combination, and can be a medical emergency.

Dr. Lu described excited delirium as a myth on the grounds that it is not a medical condition. The controversial term is only used in law enforcement to describe delirium with severe agitation. He also stressed that it was important to understand the potential risk of using CEWs in the context of excited delirium. In delirium with severe agitation, additional stress can lead to cardiac arrest, worsen heart arrhythmia, or result in sudden death; and CEW use can be that additional stress, especially with repeated discharges. However, there is no systematic research on the use of CEWs on patients with severe delirium. Dr. Lu concluded that the use of CEWs in the context of severe agitated delirium can be dangerous but may be necessary as a form of restraint. He recommended mitigating the risk of CEW use through: education, training and recognition; awareness of the variable risks of CEW; and education of coroners about delirium.

Dr. Mike Webster

> *"I would strongly urge care and caution be exercised before purchasing any electro-shock-weapon analyzer."* (Dr. Mike Webster, October 15, 2012 meeting)

Dr. Mike Webster is a Registered Psychologist (in private practice) who has worked in the area of police psychology for over 30 years. He testified at the Braidwood Commission. Dr. Webster's presentation to the Committee on October 15, 2012 was entitled "Taser: The Whole Story." Dr. Webster's main concern was the absence of independent scientific evidence regarding the electrical safety of Tasers. He suggested that the key question for the Committee to consider is whether the risk of sudden death from a Taser shock is low enough to warrant widespread use of the weapon by police in British Columbia.

Dr. Christine A. Hall, MD, MSc, FRCPC

> *"No medical study can determine the appropriateness of use of force."* (Dr. Christine A. Hall, October 15 meeting)

Dr. Christine A. Hall is an emergency room physician, Vancouver Island Health Authority (Victoria, BC) and has a cross appointment at Faculty of Medicine, UBC and University of Calgary. She is a member of the national Expert Panel on the Medical and Physiological Impacts of CEWs, established by the Council of Canadian Academies (see p. 26).

Dr. Hall, a specialist in emergency medicine (trauma), made her first presentation to the Committee on October 15, 2012 on the topic, "Understanding Police Use of Force and Sudden In-Custody Death: toward evidence-guided practice." She commented on several of the 2009 Braidwood report recommendations and noted that it is important to keep up with medical literature and new changes, which the national Expert Panel has been asked to investigate.

Dr. Hall stressed that the Sudden In-Custody Death (SICD) registry is essential for all SICDs, not just for CEWs (publication bias). Monitored, scientifically robust and comparable data collection is also essential. Another prerequisite is probe location documentation because understanding the risk of CEW depends on this knowledge in all subjects, not just where death has occurred. Context is essential in SICD. Training in CEW use should be separated from excited-delirium (ExD) training.

On October 22, 2012, Dr. Hall made a second presentation to the Committee on the topic, "More about Sudden In-Custody Death (SICD)." After presenting statistics on modalities, she reported that every method of restraint is implicated in SICD. There have been 31 Canadian deaths following any CEW use during a police-public interaction, and 8 are from BC. Between 2006 and 2010, there were 18 inquested SICD deaths in BC, excluding 2 CEW and the YVR case. Dr. Hall reported that not all of the 31 Canadian CEW deaths have been inquested. She has obtained a research grant through the City of Calgary to determine whether CEW alone is predictive of death. The data to date indicate that of the 27/31 inquested, 26/27 features were not consistent with cardiac dysrhythmia, a medical condition causing irregular heart rate; and 1/27 was missing salient details.

Dr. Hall informed the Committee that the timing of her presentation precludes review of the body of research. The challenges of interpreting existing and future research include poor methodology, misinterpretation and poor utilization. As well, there are restrictions to carrying out good study design, including the difficulty of finding un-tethered funding. Conflict of interest does not nullify findings but should be declared, as in the Human Volunteer study (partially funded by TASER International, Inc.) and Douglas P. Zipes's human cardiac risk study.

Dr. Hall concluded that since adversarial stances do little to draw out safe practice, data should be shared and appropriately evaluated in a nonpartisan way. As well, experts, including police agencies, are needed to help evaluate new technologies as they evolve. Population-based studies should continue as no large research study has determined a high risk of cardiac death from CEW. It is important to learn from the "Taser experience."

Dr. John C. Butt CM, MD, FRCPath

> *"I think the chances of having a pure, unadulterated Taser death are very small."* (Dr. John C. Butt, November 19, 2012 meeting)

Dr. John C. Butt owns Pathfinder Forum Consulting in forensic medicine and pathology, Vancouver. He testified at the Braidwood Commission in 2008.

Dr. Butt, a forensic pathologist, appeared before the Committee on November 19, 2012. His presentation focused on medical issues and CEWs related to his area of expertise, the study of sudden death.

Dr. Butt reported that the psychiatric condition of delirium is defined in the Diagnostic and Statistical Manual (DSM) of Mental Disorders, but the psychiatric condition of excited delirium is not in the DSM. Excited delirium (ED) is found in the following: acute psychosis (chronic schizophrenia and manic bipolar); delirium with alcoholism; drugs of abuse that create central nervous system stimulation (i.e. secondary to intoxication with cocaine, amphetamine and LSD).

The condition of ED exhibits four main components: hyperthermia (sweating, may remove clothing); delirium with agitation (feats of strength, high pain threshold, aggressive to shining object (glass)); respiratory arrest; and death. Sudden death can occur in ED hyperactivity in the following circumstances: metabolic acidosis, profound excitement with exhaustion, restraint compromising breathing, restraint during or following hyperactivity and not directly related to breathing.

Regarding risk factors following ED, Dr. Butt stressed that it was important to avoid what is known to add to the chance of death in restraining a subject (neck hold, CS 'pepper' spray, hobble/hog tie (hand cuffs attached to leg irons/shackles), prone position). He also recommended other protocols be followed to avoid an ED death. At onset, once diagnosis is suspected: call for ambulance ASAP; avoid exciting subject; involve a minimal number in 'take down'; keep chest free; and keep subject on side, watch for vomiting.

The second half of Dr. Butt's presentation focused on a review of the findings of an article on electronic control device (ECD) exposure published in the *Annals of Emergency Medicine* in 2011.[7] He reported that the authors' statistical data reveal that very few deaths are directly associated with the use of a Taser. He cited the finding that the populations that experience an ECD discharge typically include a high proportion of drug-intoxicated, psychiatric individuals or those in a state of excited delirium. In such individuals, the question of the detrimental effects of an electronic control device discharge cannot be answered according to the current data from clinical studies performed with healthy volunteers, and additional research is warranted.

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[7] Mathieu Pasquier, MD et al (2011): Electronic Control Device (ECD) Exposure: A Review of Morbidity and Mortality, *Annals of Emergency Medicine*, 58, 178-188.

For Dr. Butt, the key question is: would death have occurred but for the Taser? To support his own conclusion that we do not know but it seems unlikely, he cited four findings of the article and its conclusion that the role of an electronic control device in mortality remains speculative.

Canadian Mental Health Association (CMHA), BC Division

> *"We're concerned about the use and safety of CEWs with individuals experiencing mental illness."*
> (Jonathan Morris, CMHA, BC Division, October 16, 2012 meeting)

Representing the CMHA, BC Division at the October 16, 2012 meeting were Jonathan Morris, Director, Public Policy and Campus Mental Health, and Camia Weaver, independent consultant. Mr. Morris began the presentation by saying it was encouraging to see how many of the recommendations made by mental health partners during the initial Braidwood inquiry were showing up in such formative ways moving forward.

The Director then focused on the interface between the use of conducted energy weapons and people with lived experience of mental illness. A Mental Health Commission of Canada report concluded that people experiencing mental illness are over-represented in police shooting and CEW incidents and fatalities, and that CEWs were deployed in at least 50 percent of mental health and suicidal incidents.

Ms. Weaver described the following recommendations of the 2009 Braidwood report as major improvements: the requirement that there has to be an actual threat of imminent bodily harm before a CEW can be used, and the requirement to involve medical personnel. Also noteworthy is the implementation of universal and mandatory training for all front-line officers in crisis intervention and de-escalation (CID) techniques when engaging with persons in mental distress.

For CMHA, there remain a number of key issues: Is universal/mandatory training enough to support an improved police response? Is existing CID training appropriate? How can we advance a whole-of-system approach at the interface between police and individuals experiencing mental distress? How to recruit and train police officers and other professionals? What would it take to build on existing capacity to emphasize the use of CID skills? What does assessment of CEW and CID training and implementation of standards (evaluation and accountability) look like? What kind of access is provided to use-of-force reports?

To address these issues, the CMHA, BC Division recommended that government: implement universal mental health training within the law enforcement context; develop community-based, integrated and interdisciplinary training and team development; ensure basic CID training meets the standard of quality and effectiveness.

Council of Canadian Academies

> *"Our job is to assess and synthesize the evidence. It's not to do primary research. That's very important to understand. We are very much evidence-based, and we do that through a very rigorous and disciplined process."* (Elizabeth Dowdeswell, Council of Canadian Academies, November 19, 2012 meeting)

The Council of Canadian Academies (CCA) is a non-profit corporation founded by the Royal Society of Canada, the Canadian Academy of Engineering and the Canadian Academy of Health Sciences. Operating in Ottawa since 2006, it is composed of a board of governors, a scientific advisory committee and a small secretariat to support expert panels. Its mission is to provide Canadians with the best available scientific knowledge to inform debate and decision-making.

Via videoconferencing, Elizabeth Dowdeswell, CCA President and CEO, made a presentation on November 19, 2012 entitled "An Overview of the Conducted Energy Weapons Assessment." She explained that this assessment was commissioned by Defence Research and Development Canada (DRDC) as part of its Conducted Energy Weapons Strategic Initiative, which has three priority areas: exploring testing procedures, identifying medical research gaps, and creating appropriate approval processes for these types of technologies.

Regarding the second priority area, the DRDC approached the Canadian Academy of Health Sciences and the Council of Canadian Academies to undertake a joint assessment of medical and physiological impacts of CEWs. The joint science-based assessment seeks to answer three main questions: What is the current state of scientific knowledge about the medical and physiological impacts of CEWs beyond fatalities? What gaps exist in the current knowledge about these impacts? What research activities/mechanisms are required to close these gaps?

The assessment will not examine: broader use of force; training, operational policies and procedures, and protocols; effectiveness of restraint mechanisms; or injuries to law enforcement or to bystanders.

The CCA President and CEO reported that the assessment of the state of the evidence is being conducted by a multidisciplinary 14-member panel of experts from across Canada and abroad who have a range of medical, scientific and engineering specialties. The Expert Panel on the Medical and Physiological impacts of Conducted Energy Weapons is chaired by Justice Stephen T. Goudge, an Ontario Court of Appeal judge. The panelists include Dr. Robert Gordon (criminology) and Dr. Christine Hall (emergency medicine), earlier presenters to the Committee.

The independent assessment process consists of four phases: Phase 1 – Plan Assessment (May to August 2012); Phase 2 – Content Development and Peer Review (September 2012 to May 2013); Phase 3 – Report Publication (June to September 2013); and Phase 4 - Release (October 2013 and beyond).

At the end of the presentation, the CCA President and CEO offered to share information obtained via the Expert Panel's literature review with committee members, on request.

Dr. Jeffrey D. Ho

> *"[T]he data clearly shows that before CEWs were used, we had a high degree of suspect and officer injuries because this technology was not available to them. Once this came on line, those injuries and deaths have markedly decreased. So a CEW is a good tool. I want to make sure that message is loud and clear. It's a tool that has a place in law enforcement in society."* (Dr. Jeffrey D. Ho, January 28, 2013 meeting)

Dr. Jeffrey D. Ho is a full-time emergency medicine physician who practices clinically at Hennepin County Medical Center, a trauma centre in Minneapolis, and also in the field as a deputy sheriff. The hospital has a contract with TASER International, Inc. that pays the trauma centre for Dr. Ho's medical direction. Dr. Ho also holds an academic appointment at the University of Minnesota where he conducts research.

Dr. Ho appeared before the Committee on January 28, 2013. He provided a brief review of the medical research on CEW human safety, beginning with the developments since he started a research team to begin looking at CEWs in late 2003.

Dr. Ho reported that in 2004-05, the lab team conducted the first study of human subjects to answer the basic question: "What happens if you apply a Taser device to somebody?" The researchers concluded that "the TASER X26 CEW did not affect the recordable cardiac electrical activity within a 24-hour period following a standard five-second application."[8]

Between 2005 and 2010, the lab team produced multiple human studies of specific variables (e.g. breathing, alcohol intoxication, temperature change, exhaustion). To summarize all of them, Dr. Ho reported that the team did not find results that were damaging in any way. Also, when it compared the CEW to other ways of controlling people, the team found that a CEW actually affected the body less than the traditional ways the police would normally try to control a person, which would include continued fighting or chasing somebody.

Dr. Ho explained that from 2007 onwards, a number of independent, government-funded researchers in North America began to do their own research on CEWs. Their studies came up with the same results as Dr. Ho's lab team.

Between 2008 and 2010, Dr. Ho's lab team tested a new-generation CEW developed by TASER International, Inc. One experiment determined that this new device could cause extra beats of the heart. In response to the lab's finding, the manufacturer halted that project and developed several new devices with different circuitry and outputs. The lab team is now using swine models to test these TASER CEWs, as well as competitors' devices, to try to determine which one is the most likely to cause extra cardiac beats. Cardiac excitation appears to be related primarily to the device's total

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[8] Jeffrey D. Ho et al., "Cardiovascular and Physiologic Effects of Conducted Electrical Weapon Discharge in Resting Adults," *Society for Academic Emergency Medicine* (2006) 13: 589.

charge output. Other factors are the distance from the tip of the dart to the surface of the heart, and the size of the defined window on the device.

Recently, Dr. Ho's lab team has shifted its focus from studying how CEWs affect physiology to producing several papers on alternative explanations for arrest-related deaths that measure the physiological impacts of different types of restraint techniques. Research of new CEW products for safety verification and validation of best practices continues.

Dr. Ho concluded the presentation by providing an opinion about the use of CEWs by law enforcement. He stressed that CEWs play a useful role in society and in injury prevention, but that it is unrealistic to expect zero risk to be attached to their use.

Committee's Conclusions and Recommendations

The first part of the Committee's mandate involved conducting a follow-up review of Commissioner Braidwood's 2009 report recommendations. To find out whether these have been implemented, we asked the following questions: If the recommendations have not been implemented, why not? If they have been implemented, have they proved successful? Have they made a difference? Is there some statistical or other evidence to support this?

To seek answers to these questions, we consulted senior officials involved in regulating policing in the province, Commissioner Braidwood, the BC Civil Liberties Association, a former Solicitor General, and a criminologist. Our follow-up review of the implementation status of the recommendations in the 2009 Braidwood report was concluded in January 2013.

Based on the regulators' testimony and the key stakeholders' very positive assessment, we are satisfied that the right balance has been struck between exercising the appropriate level of accountability and oversight and allowing frontline police officers to use CEWs to save lives and to prevent serious injuries of both citizens and officers. We are also pleased to report to the House that the follow-up actions taken by the regulators of policing in BC – the Police Services Division, the Adult Custody Division, the BC Sheriff Service, and RCMP "E" Division – have resulted in satisfactory implementation of Commissioner Braidwood's 19 recommendations.

In particular, the Committee was instructed to conduct a review before December 31, 2012 regarding two specific topics related to the implementation of the recommendations: (a)(i) the use of CEWs by officers and (a)(ii) the training of officers in the use of CEWs. Also included in Part 1 of the mandate was (b) a review of the scientific research into medical risks to persons against whom CEWs are deployed. Our conclusions on these specific topics are now presented below:

(a)(i) Officers' Use of CEWs

- **electrical safety standards**

The Committee is pleased that the Police Services Division has developed a schedule and protocols for testing each CEW in use by a police force in BC (see pp. 10-11). We think the requirement of independent testing after the weapon has been used and the inclusion of a safety parameter beyond the manufacturer's specifications are commendable developments.

To reassure the public, though, we believe there has to be some degree of confidence that a new CEW meets the same safety parameter before it is deployed. Currently BC's testing schedule does not include testing the safety of a CEW prior to putting the weapon into service.

We acknowledge that the question of certifying that a CEW is safe to use falls within federal jurisdiction (see pp. 12-13). Nonetheless, we believe the lack of national safety parameters needs to be addressed.

Recommendation

The Committee recommends to the Legislative Assembly that the BC government advocate for the establishment of national electrical safety standards for new CEWs, through the federal/provincial/territorial working group on CEWs and in other appropriate arenas.

- **use-of-force reporting and monitoring**

Another key finding of our inquiry is that the use of CEWs by all police officers in British Columbia has declined significantly from 640 discharge incidents in 2007 to 85 incidents in 2011 (an overall decrease of 87% in all BC police agencies). One likely reason for this decline is that the Braidwood policy to restrict CEW use is now being followed. There is also some anecdotal evidence to suggest that to avoid negative publicity, police officers are reluctant to carry or use CEWs and are opting instead to use physical-control techniques (such as pressure points, joint locks) that may not be reported if medical assistance is not required.

The Committee believes the use-of-force reporting system is a valuable accountability tool. Therefore, we are concerned that data collection is incomplete on the use of physical-control techniques and communication methods, and that the existing forms are cumbersome to use. At the same time, we believe there is the need to strike a balance between trying to make sure that useful information is captured for the purposes of analysis, on the one hand, and not making the reporting so complicated that there is either no report at all, or else the reporting is incorrect, on the other. This applies especially in use-of-force situations where crisis intervention and de-escalation techniques are used.

Currently there is minimal reporting in both the municipal and the RCMP use-of-force reports of the types of communication used to calm a person causing an incident. On the municipal subject behaviour-officer response (SBOR) form, there is a single (Y/N) check box asking the officer: "Did you use Communication in this incident?" and then to describe it. The RCMP SBOR form is similar requiring the officer to insert a tick beside "Communication" and then provide details.

For monitoring future use-of-force data, we think there is a case for amending the question on the municipal subject behavior-officer response form to: "Did you use crisis intervention and de-escalation techniques, or have some other form of communication?" For the RCMP form, a drop-down menu listing different types of communication could easily be added.

Recommendation

The Committee recommends to the Legislative Assembly that the Police Services Division and the RCMP "E" Division – British Columbia change their respective subject behaviour-officer response forms in order to provide more information on the types of communication used in incidents.

(a)(ii) Training of officers in CEW use

- **CEW operator training**

Overall, the Committee is satisfied with the efforts made to date to improve the training of police officers on how to operate CEWs – with the expectation that the delay in implementing use-of-force instructor training will be temporary. Moving forward, we encourage the Police Services Division to proceed with its long-term plan to harmonize curriculum development and coordinate activities among the Justice Institute of BC Police Academy and the RCMP Pacific Region Training Centre to ensure that their training development and delivery is consistent with *BC Provincial Policing Standards* and the Provincial Learning Strategy.

- **crisis intervention and de-escalation training**

On the use-of-force continuum, a CEW falls into the category of intermediate (or less-lethal) weapon, defined as a weapon whose normal use is not intended or likely to cause serious injury or death. To minimize CEW use, officer training is available on how to use crisis intervention communication techniques effectively to de-escalate crises.

With regard to Commissioner Braidwood's recommendations regarding crisis intervention and de-escalation (CID) training, the Committee recognizes that progress has been made in providing the opportunity to frontline police officers to develop the skill set to de-escalate crises involving emotionally disturbed people. As some concerns have been voiced about the adequacy of the new CID training course, we think it would be prudent to monitor and assess its effectiveness.

Recommendation

The Committee recommends to the Legislative Assembly that the Police Services Division develop an ongoing evaluation process for crisis intervention and de-escalation training.

(b) Status of research into medical risks to persons against whom CEWs are deployed

Part 1 of our mandate also assigned committee members the task of reviewing the status of scientific research into the medical risks to persons against whom CEWs are deployed. For this assignment, we asked the following questions: Have we learned something that Commissioner Braidwood did not hear? Will the Commissioner and medical experts be able to say: This is good research, or this is bad research, or we should be doing something different?

To assist the Committee, the BC Police Services Division provided an annotated bibliography of 149 articles, as part of its 2-volume submission. This bibliography focused on research respecting the medical risks of CEWs reported between 2009 and 2011.

Seven experts were also invited to report on the status of medical research. During these briefings, the Committee received an update on the work of the national Expert Panel on the Medical and Physiological Impacts of CEWs that is due to report its findings in October 2013. In light of this, we think it best to leave an assessment of the status of medical research and the task of identifying any gaps in current knowledge in the hands of the panelists who have a range of expertise in this area.

Recommendation

The Committee recommends to the Legislative Assembly that the Police Services Division consider carefully the recommendations of the upcoming report of the national Expert Panel on the Medical and Physiological Impacts of Conducted Energy Weapons.

PART 2:
POLICE COMPLAINT AUDIT

Context

British Columbia's first province-wide police complaint process was established in 1974. Oversight of complaints took place within government and monitoring of complaints was handled by the BC Police Commission, whose members were appointed by Executive Council. That system was adjusted in 1988 when the Deputy Chair of the Police Commission became the complaint commissioner, overseeing a police-investigating-police process.

The establishment of the independent Office of the Police Complaint Commissioner (OPCC) followed a period in the 1990s when incidents such as the police shootings of Ian Bush and Danny Possee led to mounting public concern about policing. In response, the BC government set up a commission of inquiry into policing and the governance of the province's municipal police. The commission was headed by Hon. Justice Wallace Oppal.

The final report of the Oppal Commission, released in July 1994, included a list of recommendations aimed at addressing serious concerns about accountability and fairness and improving the police complaint process, including the creation of an "independent civilian complaint commissioner." In response, under 1997 amendments to the *Police Act,* the new Office of the Police Complaint Commissioner was established. The first Commissioner, Don Morrison, was appointed in 1998.

In August 2001, the Legislative Assembly appointed a Special Committee to review and report on the police complaint process and the work of the Police Complaint Commissioner. In a report tabled in August 2002, the Special Committee made 42 recommendations aimed at improving the complaint process. These focused mainly on amendments to the *Police Act* but also included recommendations about the practices of the OPCC and other relevant bodies.

Continuing public concern led then Police Complaint Commissioner Dirk Ryneveld to prepare a White Paper in March 2005 on reform of the *Police Act.* In July 2005, the Minister of Public Safety and Solicitor General announced a review of the police complaint process headed by Josiah Wood, QC. The report of Mr. Wood's review, released in February 2007, recommended replacement of the system of *ex-post-facto* oversight with a contemporaneous system whereby the OPCC concurrently monitors the police-investigating-police process.[9]

Legislative changes in response to the Wood report were brought into effect in March 2010. These included changes to the oversight powers of the OPCC, and the addition of new legal and disciplinary tools. The report also recommended that a special committee of the Legislative Assembly conduct an audit of randomly selected police complaints within three years of the legislative changes coming into force. Accordingly, on May 31, 2012, this Committee was appointed and instructed to conduct an audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the *Police Act.*

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[9] Josiah Wood, QC, *Report on the Review of the Police Complaint Process in British Columbia*, February 2007.

Office of the Auditor General of BC

> *"In my opinion, complaints processed and investigations concluded over the period April 1, 2010 to August 31, 2012, were in all significant respects completed in compliance with Part 11 of the Police Act."* (John Doyle, Auditor General of British Columbia)

The second part of the Committee's mandate required that pursuant to section 51.2 of the *Police Act*, an audit be conducted before January 1, 2013 respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the *Police Act*. This police complaint audit was first proposed by Mr. Josiah Wood, QC, in his 2007 report on the review of the police complaint process in British Columbia.

To carry out this task, the Committee decided to engage the services of the Office of the Auditor General of BC. The two parties signed a letter outlining the terms of the engagement, with the completion date for audit work anticipated to be the end of October.

By the end of the public consultation process (November 23, 2012), the Committee had received three written submissions related to the audit, all from private citizens (Alison Beil, John Harvey, Greg Klein). Each submission contained a request for an audit of specific police complaints, which was not part of the Committee's terms of reference as adopted by the House on May 31, 2012.

On November 26, 2012, the Ministry of Justice provided an overview of the historical context behind Part 11 of the *Police Act*. Next, the Committee received an in-camera briefing on the status of the audit of selected police complaints. The Auditor General presented a draft report of the police complaint audit, and the Assistant Auditor General assigned to oversee the audit outlined the methodology and the results.

At the public meeting on December 3, 2012, there was a formal presentation of the Auditor General's opinion on the audit of selected police complaints and investigations under Part 11 of the *Police Act*. The opinion and accompanying summary report were posted the same day on the Committee's website.

The Auditor General began the presentation by setting the context for his office's audit, emphasizing that effective oversight of, and accountability for, fair resolution of police complaints is critical to maintaining public confidence in the integrity of police services.

The Assistant Auditor General explained the methodology used by the audit team. The audit team decided that auditing a purely random sample of police complaints and investigations would likely not provide sufficient assurance regarding compliance with the *Act*. As a result, the decision was made to select a stratified random sample of complaints and investigations – including one file where a death was involved – to increase the relevance of its work.

Audit Findings and Recommendations

The Assistant Auditor General then reported on the audit findings. He informed the Committee of the Auditor General's conclusion that complaints processed and investigations concluded over the period April 1, 2010 to August 31, 2012 were in all significant respects completed in compliance with Part 11 of the *Police Act*. The use of the term "in all significant respects" recognizes that there may be minor instances of non-compliance that may not be detected by the audit, or that are detected but not considered worthy of inclusion in the audit report.

The Committee learned that while police complaints are being addressed in compliance with the *Act*, the audit team found that most investigations were not completed within the six-month time frame specified in the *Act*. Accordingly, the Office of the Auditor General (OAG) made the following recommendation:

OAG Recommendation 1: *We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address challenges associated with achieving the six-month time limit established for completion of investigations as specified under the Police Act.*

Other findings of the audit team were that the Police Complaint Commissioner promoted thorough and competent investigations of police complaints by exercising discretion as provided by the Act, and that the Commissioner has taken steps consistent with the Act to ensure increased public awareness of the police complaint process. However, the Assistant Auditor General reported that more could be done to ensure complaints are treated fairly and that citizens receive proper assistance when making complaints. He noted that there is no formal monitoring or training provided to police detachment staff to increase assurance that individuals wishing to make a complaint are not harassed, coerced or intimidated when questioning or reporting police conduct or making a complaint. To address this, the Office of the Auditor General made the following recommendation:

OAG Recommendation 2: *We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

Finally, the Assistant Auditor General suggested that the overhaul of the police complaint process, implemented through the amendments to the *Police Act*, represents a shift in culture, a process that takes time. He indicated that it may be appropriate for a future special committee to consider whether a more comprehensive external examination is appropriate in order to determine if the outcomes intended by Mr. Wood and legislators are achieved – namely, that all complaints against municipal police officers will be thoroughly investigated and processed to a proper conclusion.

The audit opinion and accompanying summary report are provided on the following pages:

OFFICE OF THE
Auditor General
of British Columbia

8 Bastion Square
Victoria, British Columbia
Canada V8V 1X4
Telephone: 250 419-6100
Facsimile: 250 387-1230
Website: http://bcauditor.com

November 29, 2012

VIA E-MAIL

Mr. Murray Coell
MLA Saanich North and the Islands
Chair, Special Committee to Inquire into the
Use of Conducted Energy Weapons and to Audit Selected Police Complaints
Suite F-2412 Beacon Avenue
Sidney, BC V8L 1X4

Dear Mr. Coell:

Re: Audit Opinion – Complaints and Investigations under Part 11 of the *Police Act*

I have examined whether police complaints processed and investigations concluded over the period April 1, 2010 to August 31, 2012, complied in all significant respects with Part 11 of the *Police Act* ("the Act").

Commissioner's Responsibility

The Police Complaint Commissioner is responsible for ensuring compliance with the *Act* by ensuring thorough and competent investigations of police complaints and fair adjudication with respect to all parties, as specified by the *Act*.

Auditor's Responsibility

My responsibility is to render an opinion on whether a randomly selected sample of complaints processed and investigations conducted by the Office of the Police Complaint Commissioner (OPCC) under Part 11 of the *Police Act*, for the period specified, complied in all significant respects with the *Act*. In reference to compliance, the term "in all significant respects" recognizes that there may be minor instances of non-compliance that either may not be detected by the audit, or that are detected but not considered worthy of inclusion in the audit report.

I conducted my audit in accordance with Canadian Generally Accepted Auditing Standards. Those standards require that I comply with ethical requirements in planning and performing the audit to obtain reasonable assurance that the selected complaint and investigation files evidence substantial compliance.

In my view, the audit evidence I have obtained is sufficient and appropriate to provide a basis for my opinion.

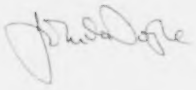
Opinion

In my opinion, complaints processed and investigations concluded over the period April 1, 2010 to August 31, 2012, were in all significant respects completed in compliance with Part 11 of the *Police Act*.

Other Matter—Observations Report

Without qualifying my opinion, I draw attention to the report, *Police Complaint Audit: Summary Report* (enclosed), which describes areas for improvement related to the timeliness of complaint investigations, and formal training to staff at police detachments on the receipt and handling of complaints.

Yours truly,



John Doyle, MAcc, CA
Auditor General

PHN/sm
Enclosure

Copy: Stan T. Lowe, Police Complaint Commissioner
Susan Sourial, Committee Clerk, Office of the Clerk of Committees,

OFFICE OF THE
Auditor General
of British Columbia

POLICE COMPLAINT AUDIT – SUMMARY REPORT

AUDITOR GENERAL COMMENTS

Effective oversight of, and accountability for, fair resolution of police complaints is critical to maintaining public confidence in the integrity of police services. In response to a request from the Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints, my office undertook an audit to determine whether police complaints are being processed in compliance with the *Police Act* ("the Act").

My office concluded that police complaints are being processed in compliance with the Act. The complaints and investigations we audited were found to be well-documented and comprehensive – providing sufficient evidence that complaints are respectfully addressed and that all investigations are conducted in a thorough manner. We observed that none of the complaints we reviewed were treated as trivial.

I would like to express my thanks to the Police Complaint Commissioner ("the Commissioner") and his staff for the cooperation and assistance they provided to my staff during the conduct of this audit.

KEY FINDINGS

- Police complaints are being addressed in compliance with the Act.
- The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act.
- The Office of the Police Complaint Commissioner (OPCC) has taken steps consistent with the Act to ensure increased public awareness of the police complaint process.

RECOMMENDATIONS

Recommendation 1: *We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address the challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.*

Recommendation 2*: We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

BACKGROUND

Request From the Special Committee

On May 31, 2012, the Legislative Assembly of British Columbia appointed a Special Committee to Inquire into the Use of Conducted Energy Weapons and to Audit Selected Police Complaints ("the Committee"). Included in the Committee's terms of reference is the following paragraph:

> "...pursuant to section 51.2 of the Act, the committee must, before January 1, 2013 conduct an audit respecting the outcome or resolution of randomly selected complaints and investigations under Part 11 of the Act and must submit a report to the Legislative Assembly respecting the results of the audit to the Legislative Assembly within one year after the date of the appointment of the Special Committee."

In accordance with section 13(2) of the *Auditor General Act*, the Auditor General of British Columbia was appointed by the Special Committee to conduct an audit to determine whether the outcome or resolution of randomly selected complaints and investigations concluded between April 1, 2010, and August 31, 2012, were, in all significant respects, completed in compliance with Part 11 of the *Police Act*.

AUDIT OBJECTIVES AND SCOPE

The objectives established for this audit were to answer the following three questions:

1. Are police complaints addressed in compliance with the Act?
2. Does the Police Complaint Commissioner promote thorough and competent investigations of police complaints by exercising discretion as provided by the Act?
3. Has the Police Complaint Commissioner taken steps consistent with the Act to ensure increased public awareness and to ensure complainants are treated fairly and receive proper assistance when making complaints?

The scope of the audit was focused on determining whether complaints are being processed, investigated and resolved in accordance with the requirements of the Act, and the extent to which the OPCC is providing discretionary oversight of the police complaint process prescribed in the Act. Excluded from the scope of the audit was providing an opinion about the validity of investigation decisions.

The Act specifies auditing a random sample of police complaints and investigations; however, based on the audit team's risk assessment, a purely random sample would likely not provide sufficient assurance regarding compliance with the Act. Therefore, a stratified random sample of complaints and investigations was selected to increase the relevance of our work.

SUMMARY REPORT

Audit Conclusion

The Auditor General has concluded that, overall, police complaints are being managed in compliance with the Act. The Commissioner promotes thorough and competent investigations of police complaints by exercising discretion as provided by the Act, and the OPCC has taken steps that are consistent with the Act to increase public awareness of the police complaint process.

KEY FINDINGS AND RECOMMENDATIONS

Are police complaints addressed in compliance with the Police Act?

We found that police complaints have been addressed in compliance with the Act. Most investigations were not completed within the six-month time frame specified in the Act, but were completed within time extensions granted by the Commissioner, as provided for in the Act. While we conclude there has been substantive compliance, the fact that less than half (45%) of the investigations in our sample were completed within the six-month time frame suggests that investigations are not being completed within the time frame generally intended by the Act.

Recommendation 1*: We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address the challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.*

Does the Police Complaint Commissioner promote thorough and competent investigations of police complaints by exercising discretion as provided by the Police Act?

We found that the Commissioner exercised discretionary authority as provided by the Act to direct departments to officially document complaints, including those that did not result in a formal complaint being registered. Evidence also shows that the Commissioner directed external investigations to be conducted when deemed in the public interest. We also found the Commissioner reviews Discipline Authority decisions and exercises independent power to appoint a new Discipline Authority if, in the opinion of the Commissioner, he is not convinced that the conclusion of an investigation is correct.

Has the Police Complaint Commission taken steps consistent with the Police Act to ensure increased public awareness and to ensure complainants are treated fairly and receive proper assistance in making complaints?

We found the OPCC has endeavoured to foster public awareness of the police complaints process and individual complainant rights under the Act. Guidelines have been developed for police detachments to follow when handling and processing complaints. Also, forms have been created by the OPCC for police detachments to use when handling and processing both registered and non-registered complaints. Finally, the OPCC has established a list of support groups that may be contacted to provide assistance with complaints.

At the present time, there is no formal monitoring or training provided to detachment staff to increase assurance that individuals wishing to make a complaint are not harassed, coerced, or intimidated when questioning or reporting police conduct or making a complaint. Although we found no evidence of any in-person complaint being received inappropriately, this is an area for potential improvement.

***Recommendation 2**: We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

LOOKING AHEAD

In the conclusion to his 2007 review[1], Josiah Wood, QC, wrote, "there is still some distance to go before one-quarter of the population in British Columbia can be fully confident that all complaints against their municipal police officers will be thoroughly investigated and processed to a proper conclusion."

The scope of this audit, which was focused on compliance with legislation, was an appropriate check-in approximately two and a half years after Justice Wood's review recommendations were implemented in law. The audit found that there has been positive change and that compliance has been achieved. And, although the scope of the audit did not include providing an opinion on the appropriateness of decisions rendered as a result of investigations, we are able to provide overall assurance that complaints are properly processed and thoroughly investigated.

Looking ahead, it may be appropriate for a future special committee to consider whether a more comprehensive external examination is appropriate in order to determine if the outcomes intended by Justice Wood and legislators are being achieved.

[1] "Report on the Review of the Police Complaint Process in British Columbia" by Josiah Wood, Q.C., February 2007.

Responses to the Audit

BC Police Complaint Commissioner

> *"In terms of the audit findings, this is a very good-news audit for our office as well as for all stakeholders in the police complaint system."* (Stan Lowe, Police Complaint Commissioner for British Columbia)

The Police Complaint Commissioner is an independent officer of the Legislature and responsible for overseeing complaints about municipal police officers in British Columbia. At the December 3, 2012 meeting, the Commissioner described the police complaint audit as being a positive and beneficial experience that validated the rigorous planning and preparation undertaken by his Office to ensure the successful implementation of the new complaint process. The Commissioner described the scope of the audit as appropriate at this early stage of the process, adding that a future audit could include an analysis of the validity of the investigative decisions.

In response to the audit, the following actions are being taken by the Office. To address the timeliness issue: pending an appeal of a court decision to curtail the Commissioner's oversight powers in the investigations stage, the Office is working with professional standards staff, police associations and police unions to address the issue of delay in the investigation process. The Office is also in the process of developing an education, training and auditing program (to be implemented in January 2013) with respect to handling complaints.

BC Police Association

> *"In conclusion, I'd like to say that I appreciate the work done by the Auditor General's office on behalf of the committee and fully support the recommendations that were made. Ensuring a streamlined process that achieves the six-month goal for the completion of investigation is a worthwhile initiative that has the complete support of the men and women who are subject to these investigations."* (Tom Stamatakis, BC Police Association)

The BC Police Association (BCPA) represents over 2,500 front-line police personnel, and the majority of police officers who are subject to the citizen complaint and disciplinary processes set out in the *Police Act*. At the December 10, 2012 meeting, the President emphasized that the BCPA members agree that accountability and civilian oversight are very important measures that help to ensure that citizens continue to have faith and trust in their police services.

The BCPA President stated that without access to more specific information regarding how the OAG audit was conducted, particularly with respect to the number of complaints reviewed and what aspects of the process they were focused on, it was difficult to comment on the specific conclusions reached by the audit team. Nonetheless, he could say that the experience of the BCPA as an important stakeholder in this process confirms what the audit team found regarding the length of

time it can take to complete an investigation into a citizen complaint. He reported that BCPA members are routinely subject to investigations that last well beyond the six-month time frame provided in the *Police Act*.

While the OAG audit conclusions are positive, the BCPA believes that the focus of the audit precluded the auditors from uncovering the most significant issues regarding the current citizen complaint and disciplinary processes under Part 11 of the *Police Act*. The Association's concerns about these processes flow primarily from the manner in which the 2010 amendments were drafted. Another issue is the need for a more simplified process for dealing with disciplinary issues of a minor nature.

Committee's Conclusions and Recommendation

The Committee is pleased to report that the findings of the audit of randomly selected complaints conducted by the Office of the Auditor General confirm that the complaint process in place at the BC Office of the Police Complaint Commissioner is addressing complaints in compliance with Part 11 of the *Police Act*. We are concerned, though, that only 45 percent of the investigations reviewed were completed within the six-month time frame, and that there remains the need to improve staff training for the processing of complaints.

Recommendation

The Committee endorses the two recommendations made by the Office of the Auditor General (OAG) and recommends the same to the Legislative Assembly:

***OAG Recommendation 1**: We recommend the Office of the Police Complaint Commissioner work with police professional practices staff to identify and address challenges associated with achieving the six-month time limit established for the completion of investigations as specified under the Police Act.*

***OAG Recommendation 2**: We recommend the Office of the Police Complaint Commissioner provide formal training to staff at police detachments on the receipt and handling of complaints.*

APPENDICES

Appendix A: Summary of Police Services Division's Responses

BRAIDWOOD RECOMMENDATION	RESPONSE
1. I recommend that officers of provincially regulated law enforcement agencies be authorized to deploy a conducted energy weapon only in relation to enforcement of a federal criminal law.	Effective July 23, 2009, the Solicitor General directed all police in B.C. to severely restrict the use of CEWs in accordance with the Braidwood recommendations. Specifically, the directive addressed Recommendations 1-3 and 5-8. In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established new *BC Provincial Policing Standards* for the threshold and circumstances governing CEW use (BCPPS 1.3.1). These binding *Standards* ensure CEWs are only used in compliance with Justice Braidwood's Recommendations 1 through 3 and 5 through 7. Although Recommendation 1 is not explicitly mentioned in these *Standards*, the threshold set out in the *Standards* (i.e., a person is causing or will imminently cause bodily harm to themselves or another person) precludes CEWs from being deployed other than in relation to the enforcement of a federal criminal law.
2. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon unless the subject's behaviour meets one of the following thresholds: • the subject is causing bodily harm; or • the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm.	As above.

BRAIDWOOD RECOMMENDATION	RESPONSE
3. I recommend that, even if the threshold set out in Recommendation 2 is met, an officer be prohibited from deploying a conducted energy weapon unless the officer is satisfied, on reasonable grounds, that: • no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and • de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.	As above.
4. I recommend that the Ministry of Public Safety and Solicitor General approve a curriculum for crisis intervention training comparable to that recommended by presenters at our public forums, and require: • that it be incorporated without delay in recruit training for officers of provincially regulated law enforcement agencies; and • that all currently serving officers of provincially regulated law enforcement agencies satisfactorily complete the training within a time frame established by the ministry.	In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established new *BC Provincial Policing Standards* that require all front-line police officers and recruits and cadets to successfully complete provincially-approved training in crisis intervention and de-escalation (BCPPS 3.2.2(1 and 2)). PSD worked with consultants to develop standardized training for police officers in crisis intervention and de-escalation. The Crisis Intervention and De-escalation Training (CID) course was launched in January 2012, and is mandatory training (or a provincially approved equivalent.
5. I recommend that officers of provincially regulated law enforcement agencies, when dealing with emotionally disturbed people, be required to use de-escalation and/or crisis techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.	As noted above under Recommendation 1, the Solicitor General directed all police in B.C. to use de-escalation or crisis intervention techniques with emotionally disturbed persons as a first response, effective July 23, 2009. The *BC Provincial Policing Standards -1.3.1 CEW Threshold and Circumstances of Use* also specifically address this recommendation (1.3.1(2)).

BRAIDWOOD RECOMMENDATION	RESPONSE
6. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon in the case of subject self-harm unless: • the subject is causing bodily harm to himself or herself; or • the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm to himself or herself.	As noted above under Recommendation 1, effective July 23, 2009, the Solicitor General directed all police in B.C. to use CEWs only where a subject is self-harming or the officer believes, on reasonable grounds, that the subject is at imminent risk of bodily harm. The *BC Provincial Policing Standards -1.3.1 CEW Threshold and Circumstances of Use* also specifically address this recommendation (1.3.1(1)).
7. I recommend that officers of provincially regulated law enforcement agencies be prohibited from discharging an electrical current from a conducted energy weapon on a subject for longer than five seconds, unless the officer is satisfied, on reasonable grounds, that: • the five-second discharge was not effective in eliminating the risk of bodily harm; and • a further discharge will be effective in eliminating the risk of bodily harm.	As noted above under Recommendation 1, effective July 23, 2009, the Solicitor General directed all police in B.C. to refrain from multiple deployments of the CEW except as recommended by Justice Braidwood. The *BC Provincial Policing Standards -1.3.1 CEW Threshold and Circumstances of Use* also specifically address this recommendation (1.3.1(3)).

BRAIDWOOD RECOMMENDATION	RESPONSE
8. I recommend that paramedic assistance be requested in every medically high-risk situation, preferably before deployment of a conducted energy weapon or, if that is not feasible, then as soon as practicable thereafter. Medically high-risk situations include, but are not limited to: • deployment in probe mode across the subject's chest; • deployment in probe mode for longer than five seconds; • deployment in any mode against: o an emotionally disturbed person; o an elderly person; o a person who the officer has reason to believe is pregnant; or o a person who the officer has reason to believe has a medical condition that may be worsened because of the deployment (*e.g.*, heart disease, implanted pacemaker or defibrillator, etc.)	As noted above under Recommendation 1, effective July 23, 2009, the Solicitor General directed all police in B.C. to seek medical assistance in every high-risk situation. In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established *BC Provincial Policing Standards* governing medical assistance to CEW discharges that specifically address this recommendation (BCPPS 1.3.4(5)). The *Standards* require all police in B.C. to seek medical assistance in every medically high-risk incident.
9. I recommend that whenever a conducted energy weapon is assigned to an officer of a provincially regulated law enforcement agency, that the officer also have an automated external defibrillator readily available for use.	In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established *BC Provincial Policing Standards – 1.3.4 Medical Assistance to CEW Discharges* that require that AEDs be readily available to officers equipped with CEWs (1.3.4 (1) and (2)). "Readily available" was not defined by Braidwood. Upon consultation with BRIC, readily available has been defined in the *Standards* to mean: in urban areas patrol supervisors must be equipped with AED's; and, in rural areas, CEW assigned officers must also be equipped with an AED.
10. I recommend that the provincial government set province-wide standards relating to conducted energy weapons, including, but not necessarily limited to: • which conducted energy weapon	In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established the following *BC Provincial Policing Standards* relating to CEWs:

BRAIDWOOD RECOMMENDATION	RESPONSE
models are approved for use; • the circumstances in which a conducted energy weapon may, or must not, be used; • qualifications to begin training as an operator, instructor, or master trainer; • the curriculum for operator, instructor, and master instructor training programs, including content, duration, pass/fail level, remedial training, and re-certification; • mandatory reporting of each conducted energy weapon use, including what information must be reported and in what form; and • periodic province-wide analysis of usage reports, with mechanisms to ensure that the results of such analysis inform policy developments and training.	• *1.2.1 Intermediate Weapon and Restraint Approval Process*; • *1.3.1 CEW Threshold and Circumstances of Use*; • *1.3.2 Approved CEW Models*; • *1.3.3 Internal CEW Controls and Monitoring*; • *1.3.4 Medical Assistance to CEW Discharges*; • *3.2.1 CEW Operator Training*; and • *3.2.2 CID Training*. In addition, PSD drafted new *BC Provincial Policing Standards* governing use-of-force reporting and data collection (BCPPS 1.8.1). These *Standards* will meet and exceed Braidwood's recommendation by requiring not only mandatory reporting of all CEW use (1.8.1 (1)(d)) but by also addressing other force applications. The *Standards* also specify the form and content of reports (1.8.1(2)). The *Standards* are directed at chief constables, chief officers and commanding officers and, therefore, cannot require provincial analysis. However, the information that must be reported under these *Standards* will enable PSD to undertake the province-wide analysis referred to in Braidwood's recommendation. These *Standards* are currently under development. PSD developed standardized training for CEW operators (BC's *CEW Operator Training* course), as well as standardized training in crisis intervention and de-escalation (*Crisis Intervention and De-escalation Techniques*). Training for both courses was launched January 2012. PSD continues to work on qualifications to begin training as an instructor or master trainer and the curriculum for instructor and master training programs. PSD will address these issues in the broader context of use of force instruction (i.e., not limited to CEW instruction).

BRAIDWOOD RECOMMENDATION	RESPONSE
11. I recommend that the Police Academy be responsible for training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, as an integral component of use-of-force training generally, and that training be conducted in accordance with the policies established by the provincial government, taking into consideration the medical risks discussed in this Report.	In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established *BC Provincial Policing Standards* that will require all police officers to successfully complete provincially-approved CEW operator training prior to being issued a CEW (BCPPS 3.2.1(1)). PSD developed standardized training for CEW operators (BC's *CEW Operator Training* course). The course was launched January 2012. Although Braidwood recommended that the Police Academy be responsible for CEW training, the training developed by PSD will meet the intent of the recommendation by ensuring consistency in CEW training across all police services in the province and compliance with provincial policing standards.
12. I recommend that the province's standards relating to the curriculum for operator, instructor, and master instructor training and re-training prohibit a trainer's or trainee's exposure to the electrical current of a conducted energy weapon.	In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established *BC Provincial Policing Standards* governing CEW operator training which prohibit a trainer's or trainee's exposure to the electrical current of a CEW (BCPPS 3.2.1(6)).

BRAIDWOOD RECOMMENDATION	RESPONSE
13. I recommend that the Attorney General ask the federal minister responsible for administration of the *Hazardous Products Act*: • to add conducted energy weapons to the schedule of restricted products under that Act; and • to make regulations prescribing the circumstances and conditions under which weapons may be imported into, and sold in, Canada.	Then Solicitor General Kash Heed wrote to the federal Minister of Justice and Attorney General of Canada on July 24, 2009, in support of this recommendation. The matter was referred to the federal Minister of Health, who advised on October 27, 2009, that CEWs are not within the purview of the *Hazardous Products Act* because they cannot be imported or purchased by consumers; the inclusion of CEWs would represent a significant departure from the scope and purpose of the legislation. The response further advised that CEWs, as a prohibited weapon, are already strictly regulated by the *Criminal Code* and the *Firearms Act*. On May 13, 2010, then Deputy Solicitor General David Morhart wrote to Glenda Yeates, Deputy Minister, Health Canada to request consideration of the recommendation. Ms. Yeates' response of July 21, 2010, reiterated that CEWs are beyond the scope of the *Hazardous Products Act* and are already regulated by the *Criminal Code* and the *Firearms Act*. As this matter falls within federal jurisdiction, the Province has fulfilled the recommendation by bringing the issue forward to the federal government.

BRAIDWOOD RECOMMENDATION	RESPONSE
14. I recommend that every conducted energy weapon used by officers of provincially regulated law enforcement agencies be periodically tested for electrical output, according to a testing protocol approved by an independent body and according to a schedule established by the Ministry of Public Safety and Solicitor General, and that the test include, but not necessarily be limited to: • the number of pulses per second; • the duration of each pulse; and • the maximum current during each pulse.	In December 2008, the Solicitor General directed that all CEWs acquired by police, sheriffs and corrections officers prior to January 1, 2006, be pulled from service and submitted for testing. This testing was completed in April 2009. Testing was also conducted on CEWs purchased after 2006. This testing was completed in May 2010. To ensure appropriate testing of CEWs continues to take place and to address Braidwood's recommendation, PSD established, in consultation with the Braidwood Recommendations Implementation Committee (BRIC) *BC Provincial Policing Standards* governing testing of CEWs (*1.3.5 CEW Testing*). The *Standards* address the schedule of testing (1.3.5(1)) and testing protocol requirements (1.3.5(2)).
15. I recommend that whenever there is a serious injury or death proximate to use of a conducted energy weapon by an officer of a provincially regulated enforcement agency, the weapon be withdrawn from service and its electrical output be tested in accordance with, and for the matters referred to in, Recommendation 14.	Effective December 22, 2009, the Solicitor General directed all police in the province to immediately withdraw a CEW from service and ensure testing is performed whenever serious injury or death results proximate to CEW discharge. In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established *BC Provincial Policing Standards* that specifically address this recommendation. The BCPPS 1.3.5(1)(c) require that a CEW be tested immediately after it is used in an incident where either serious injury or death occurs proximate to its use. The BCPPS 1.3.3 require that after an operational CEW discharge where serious injury or death occurred proximate to the discharge, the CEW not be returned to service until it is tested, and repaired and retested.

BRAIDWOOD RECOMMENDATION	RESPONSE
16. I recommend that the provincial Ministry of Public Safety and Solicitor General, without delay: • develop a province-wide conducted energy weapon incident report form that will capture enough information to permit the type of analysis undertaken by this Commission, as reported in Part 7 of this Report; • require that the report form be completed whenever an officer of a provincially regulated law enforcement agency deploys a conducted energy weapon, even if deployment is limited to display mode only; • develop a province-wide electronic system for the reporting and analysis of conducted energy weapon incidents; • require that every completed report form be forwarded without delay to the ministry, and that the data on the report form be entered into the province-wide electronic system; • review reported incidents, at least quarterly, for the purposes of informing the development of policy and training; • publish, at least annually, a detailed report on conducted energy weapon usage by provincially regulated law enforcement agencies; and • require each provincially regulated law enforcement agency: o to implement a "sign out" policy whenever a conducted energy weapon and/or a probe cartridge is issued to an officer; o to designate a specific employee to download the data from every conducted energy weapon at least once every month (matching the data relating to each deployment against the related incident	Effective September 1, 2009, the Assistant Deputy Minister, Policing and Community Safety Branch directed all independent police services to submit to PSD a copy of all use-of-force reports, not just those pertaining to CEW deployments. The ADM obtained commitment from Deputy Commissioner Gary Bass, RCMP "E" Division to provide the same. At the time of Braidwood's report, a new provincial use-of-force reporting form (SBOR) had been developed in PRIME and was being piloted at some police services. Other police services were using earlier versions of SBOR or a different reporting mechanism altogether. PSD developed a use-of-force database (BCFID) that could compile information from any of these reporting formats and permit provincial analysis of use-of-force data. The RCMP has been providing SBOR data to PSD in an electronic spreadsheet, whereas SBOR information from other police forces must be entered or transferred into BCFID. The SBOR form and BCFID will continue to be used to fulfill Braidwood's recommendation. In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) drafted *BC Provincial Policing Standards* that require the submission of a report, in a provincially-approved format, each time a CEW is displayed or discharged (BCPPS 1.8.1(1)(d) and (2)). The *Standards* specify timelines within which reports must be provided (BCPPS 1.8.1(7)). Draft BCPPS 1.8.1 is currently under development. BCFID currently has records of over 3,700 force deployments. PSD has been monitoring the overall trends in CEW usage from aggregate data from 2007 onwards. A CEW usage trends report was produced in 2011, covering data from 2007-

BRAIDWOOD RECOMMENDATION	RESPONSE
report), and to report any discrepancies to that employee's supervisor; o to review the use of conducted energy weapons by its own officers at least quarterly, to determine compliance with policy; and o to report at least annually, to the responsible provincial minister, and in the case of a municipal police department to the police board, on the agency's use of its conducted energy weapons.	2010. This report will be updated with 2011 data. A more detailed analysis and report of CEW discharge incidents in 2010 and 2011 is currently being compiled. In consultation with the Braidwood Recommendations Implementation Committee (BRIC), Police Services Division (PSD) established *BC Provincial Policing Standards* governing CEW controls and monitoring that address the remaining aspects of this recommendation, including requiring police services to: • Implement a CEW sign-out policy (1.3.3(3)); • Designate a person responsible for matching data from CEW incident reports to the download data (1.3.3(5-7)); • Review the police service's use of CEWs at least quarterly to determine compliance with policy (1.3.3(8)); and • Report to the board and minister on the police service's use of CEWs (1.3.3(9)). Due to onerous impacts on resources, rather than monthly administrative downloads of data as per the recommendation, the *Standards* require data downloads after every operational discharge together with the corresponding use-of-force reports, as well as annual administrative downloads.

BRAIDWOOD RECOMMENDATION	RESPONSE
17. I recommend that the Minister of Public Safety and Solicitor General encourage the minister's federal, provincial, and territorial counterparts to develop and fund a national research program for conducted energy weapons that will promote independent, science-based, and peer-reviewed research that attaches priority to: • quantifying the medical risks associated with conducted energy weapon use; • identifying the highest-risk subjects; • identifying the highest-risk external circumstances; and • developing recommendations for best practices, including but not limited to: o deployments in probe mode across the subject's chest; o multiple deployments; and o emotionally disturbed people.	Then Solicitor General Kash Heed wrote to the federal Minister of Public Safety Peter Van Loan on December 22, 2009, encouraging his support for the recommendation to develop and fund a national research program for CEWs. Since 2008, B.C. has co-chaired a FPT working group on CEWs. The group has worked with Public Safety Canada to set research priorities regarding CEW research. Public Safety Canada has collaborated with other groups on the Conducted Energy Weapons Strategic Initiative. The Initiative includes research on the physiological impacts of CEWs.

BRAIDWOOD RECOMMENDATION	RESPONSE
18. I recommend that the *Police Act* be amended to require that a special committee of the Legislative Assembly, or an individual appointed by the Legislative Assembly, begin a comprehensive review of conducted energy weapons within three years after this Report is made public and submit to the Legislative Assembly, within one year after beginning the review, a report that includes, but is not necessarily limited to: • the extent to which the recommendations contained in this Report have been implemented; • new information about the medical risks associated with the use of conducted energy weapons, including new models of weapons that have become available since this Report was written; and • recommendations relating to the circumstances in which it is appropriate to use conducted energy weapons, and to training of officers in the use of such weapons.	The *Police Act* was amended effective June 3, 2010, to address this recommendation. Section 40.1 requires that a special committee of the Legislative Assembly be appointed before December 31, 2012, to conduct a review of: (i) the implementation of Braidwood's recommendations respecting the use of CEWs by officers and the training of officers in the use of CEWs (section 40.1(2)(a)) and (ii) the scientific research into the medical risks associated with CEW use (section 40.1(2)(b)). The special committee must submit a report outlining the results of its review within one year after its appointment (section 40.1(6)). The special committee may include in its report any recommendations it considers necessary (section 40.1(7).

BRAIDWOOD RECOMMENDATION	RESPONSE
19. I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, policies, and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.	In keeping with the Recommendation, the issue of whether the RCMP must abide by provincial policing standards was raised by the Province during negotiations with the federal government regarding the new policing contract with the RCMP. PSD obtained a commitment from then Deputy Commissioner Gary Bass, RCMP "E" Division, that the RCMP would comply with any standards developed by the Province in response to the recommendations. The RCMP participated in the consultation process leading to the development of CEW-related standards through its membership and participation in the Braidwood Recommendations Implementation Committee (BRIC). In addition, the new provincial police service agreement that took effect April 1, 2012, provides for consultation between the Province and the Commissioner of the RCMP when the Province establishes standards and procedures, as well as a commitment from the Commissioner to harmonize RCMP standards and procedures, when appropriate to do so, with those established standards and procedures.

Appendix B: Adult Custody Division Response to Recommendations

Seriousness of the matter threshold

1. I recommend that officers of provincially regulated law enforcement agencies be authorized to deploy a conducted energy weapon only in relation to enforcement of a federal criminal law.

Corrections Branch Adult Custody policy section 1.4.4 has been updated to clarify that the conducted energy weapon is deployed only in relation to the enforcement of a federal criminal law and when the inmate's behaviour meets the following thresholds:

- *The subject is causing bodily harm to himself/herself or others; or*
- *The officer is satisfied, on reasonable grounds, that the inmate's behaviour will imminently cause bodily harm to himself/herself or others.*

Subject behaviour threshold

2. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon unless the subject's behaviour meets one of the following thresholds:
    - the subject is causing bodily harm; or
    - the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm.

3. I recommend that, even if the threshold set out in Recommendation 2 is met, an officer be prohibited from deploying a conducted energy weapon unless the officer is satisfied, on reasonable grounds, that:
    - no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and
    - de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.

Corrections Branch Adult Custody policy section 1.4.4 has been updated to clarify that officers can only deploy the conducted energy weapon when the subject behaviour threshold described above is met.

Emotionally disturbed people

4. I recommend that the Ministry of Public Safety and Solicitor General approve a curriculum for crisis intervention training comparable to that recommended by presenters at our public forums, and require:

- that it be incorporated without delay in recruit training for officers of provincially regulated law enforcement agencies; and
- that all currently serving officers of provincially regulated law enforcement agencies satisfactorily complete the training within a time frame established by the ministry.

Corrections Branch Adult Custody Division trains all new correctional officers in crisis intervention training as part of the basic recruit training. The Corrections Branch training has been reviewed and is considered equivalent to the Police Services Division training.

5. I recommend that officers of provincially regulated law enforcement agencies, when dealing with emotionally disturbed people, be required to use de-escalation and/or crisis intervention techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.

Corrections Branch Adult Custody Division staff use crisis intervention and/or de-escalation techniques when dealing with emotionally disturbed people prior to deploying a conducted energy weapon. The Adult Custody Division Officer Safety Refresher training includes a component of de-escalation techniques. The Adult Custody Division Force Options training includes a component of crisis intervention techniques.

Subject self-harm

6. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon in the case of subject self harm unless:
    - the subject is causing bodily harm to himself or herself; or
    - the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm to himself or herself.

Corrections Branch Adult Custody Division policy section 1.4.4 has been updated to clarify that officers are prohibited from deploying a conducted energy weapon in the case of subject self- harm unless the above-noted conditions have been met.

Multiple deployments

7. I recommend that officers of provincially regulated law enforcement agencies be prohibited from discharging an electrical current from a conducted energy weapon on a subject for longer than five seconds, unless the officer is satisfied, on reasonable grounds, that:
    - the five-second discharge was not effective in eliminating the risk of bodily harm; and
    - a further discharge will be effective in eliminating the risk of bodily harm.

Corrections Branch Adult Custody policy section 1.4.5 has been updated to clarify that conducted energy weapon applications in fire or contact stun mode are only used when there is a risk of bodily harm as identified in Adult Custody policy section 1.4.1 and a further discharge will be effective in eliminating that risk.

Requesting paramedic assistance

8. I recommend that paramedic assistance be requested in every medically high risk situation, preferably before deployment of a conducted energy weapon or, if that is not feasible, then as soon as practicable thereafter. Medically high-risk situations include, but are not limited to:
   - deployment in probe mode across the subject's chest;
   - deployment in probe mode for longer than five seconds;
   - deployment in any mode against:
     - an emotionally disturbed person;
     - an elderly person;
     - a person who the officer has reason to believe is pregnant; or
     - a person who the officer has reason to believe has a medical condition that may be worsened because of the deployment (*e.g.,* heart disease, implanted pacemaker or defibrillator, etc.).

Corrections Branch Adult Custody policy section 1.4.4 requires, when practical, a health care professional to review the inmate's medical information and advise the officer authorizing the use of the device of any medical concerns. Policy also stipulates that a CEW device is not used for the control of an inmate who is known to be pregnant.

Section 1.4.7 requires health care personnel to attend and stabilize an inmate as soon as practical after a conducted energy weapon is discharged. Section 1.4.7 further directs that in every situation of discharge of a CEW against an inmate, the inmate is transported as soon as practical to the local emergency department for assessment. This section of policy has been updated to include the requirement for Corrections Branch staff to request paramedic assistance in every medically high risk situation when health care personnel are not available. Medically high risk is defined in policy to be consistent with language used in recommendation #8.

Automated external defibrillators

9. I recommend that whenever a conducted energy weapon is assigned to an officer of a provincially regulated law enforcement agency, that the officer also have an automated external defibrillator readily available for use.

Corrections Branch Adult Custody policy section 1.1.4 requires an automated external defibrillator (AED) be readily available for whenever the CEW is authorized for use. AED's are readily available in the provincial correctional centres. Corrections Branch Adult Custody Division policy section 1.4.7 requires in every situation of discharge of a CEW against an inmate, the inmate is transported as soon as practical to the local emergency department for assessment.

Provincial regulation

10. I recommend that the provincial government set province-wide standards relating to conducted energy weapons, including, but not necessarily limited to:
    - which conducted energy weapon models are approved for use;
    - the circumstances in which a conducted energy weapon may, or must not, be used;
    - qualifications to begin training as an operator, instructor, or master trainer;
    - the curriculum for operator, instructor, and master instructor training programs, including content, duration, pass/fail level, remedial training, and re-certification;
    - mandatory reporting of each conducted energy weapon use, including what information must be reported and in what form; and
    - periodic province-wide analysis of usage reports, with mechanisms to ensure that the results of such analysis inform policy development and training.

Corrections Branch Adult Custody Division does comply with the standard set by the Province regarding which conducted energy weapon is approved for use.

Adult Custody Division policy section 1.4.4 outlines the circumstances in which a conducted energy weapon may, or must not, be used and is in accordance with recommendations put forward by the Braidwood Commission.

Corrections Branch Adult Custody Division does not have master trainers. Adult Custody Division instructor training is conducted by a Police Services master trainer according to current manufacturer's recommendations and includes references to provincial use of force and conducted energy weapon policy. The trainer certification is valid for two years. Operator training is conducted according to current manufacturer's recommendations with reference to provincial use of force and conducted energy weapon policy. The operator certification is valid for one year.

Police Services Division has developed a CEW users training course and Corrections Branch has been given permission to use that material and customize it for a Corrections environment. The Corrections Branch anticipates the training will be ready for review early 2013.

Adult Custody Division policy section 1.4.8 requires correctional centres to complete reports and submit them to the warden or designate and the Adult Custody Division provincial director when a conducted energy weapon is authorized for use. The reports include the provincial Use of Force Report, Incident Report, Inmate Injury Report and video recordings.

Training and re-training

11. I recommend that the Police Academy be responsible for training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, as an integral component of use-of-force training generally, and that training be conducted in accordance with the policies established by the provincial government, taking into consideration the medical risks discussed in this Report.

Corrections Branch Adult Custody Division policy section 1.4.12 requires training and certification to be conducted according to standards established by Adult Custody Division with reference to manufacturer's recommendations. Police Services Division has developed a CEW users training course and Corrections Branch has been given permission to use that material and customize it for a Corrections environment. The Corrections Branch anticipates the training will be ready for review early 2013.

12. I recommend that the province's standards relating to the curriculum for operator, instructor, and master instructor training and re-training prohibit a trainer's or trainee's exposure to the electrical current of a conducted energy weapon.

Corrections Branch Adult Custody Division policy section 1.4.12 stipulates that trainees are not subjected to the conducted energy weapon under any circumstances. The policy has been updated to include trainers.

Certification of conducted energy weapons

13. I recommend that the Attorney General ask the federal minister responsible for administration of the *Hazardous Products Act*:
    - to add conducted energy weapons to the schedule of restricted products under that Act; and
    - to make regulations prescribing the circumstances and conditions under which such weapons may be imported into, and sold in, Canada.

On May 13, 2010, then Deputy Solicitor General David Morhart wrote to Glenda Yeates, Deputy Minister, Health Canada to request consideration of Recommendation 13 Ms. Yeates' response of July 21, 2010 advised that CEWs are not considered consumer products within the scope of the Hazardous Products Act because they cannot be imported or purchased by consumers. Ms. Yeates also advised that weapons and firearms, which include CEWs, are already strictly controlled under the Criminal Code and the Firearms Act.

As this matter falls within federal jurisdiction, the Province has fulfilled recommendation 13 by bringing the issue to the attention of the federal government.

Periodic testing of conducted energy weapons

14. I recommend that every conducted energy weapon used by officers of provincially regulated law enforcement agencies be periodically tested for electrical output, according to a testing protocol approved by an independent body and according to a schedule established by the Ministry of Public Safety and Solicitor General, and that the test include, but not necessarily be limited to:
    - the number of pulses per second;
    - the duration of each pulse; and
    - the maximum current during each pulse.

Corrections Branch Adult Custody policy section 1.4.11 has been updated to include a section on testing of conducted energy weapons. All CEW's are tested, analyzed and reported on according to the protocols described in Test Procedure for Conducted Energy Weapons. CEW's are tested according to the following schedule:

- *Upon delivery and prior to operation of a new device;*
- *After the first two years of operation'*
- *Every year thereafter; and*
- *After an incident of serious injury or death following its deployment, the CEW is removed from service and tested.*

Testing is conducted independently of the manufacturer, and the test procedure is verified by a professional engineer to meet the standards of the Test Procedure for Conducted Energy Weapons.

Testing after a serious injury or death

15. I recommend that whenever there is a serious injury or death proximate to use of a conducted energy weapon by an officer of a provincially regulated law enforcement agency, the weapon be withdrawn from service and its electrical output be tested in accordance with, and for the matters referred to in, Recommendation 14.

Corrections Branch Adult Custody policy section 1.4.11 has been updated to include a section on testing of conducted energy weapons. A conducted energy weapon will be withdrawn from service and tested immediately following a serious injury or death proximate to use of the conducted energy weapon.

Reporting on conducted energy weapon use

16. I recommend that the provincial Ministry of Public Safety and Solicitor General, without delay:
    - develop a province-wide conducted energy weapon incident report form that will capture enough information to permit the type of analysis undertaken by this Commission, as reported in Part 7 of this Report;
    - require that the report form be completed whenever an officer of a provincially regulated law enforcement agency deploys a conducted energy weapon, even if deployment is limited to display mode only;
    - develop a province-wide electronic system for the reporting and analysis of conducted energy weapon incidents;
    - require that every completed report form be forwarded without delay to the ministry, and that the data on the report form be entered into the province wide electronic system;
    - review reported incidents, at least quarterly, for the purposes of informing the development of policy and training;

- publish, at least annually, a detailed report on conducted energy weapon usage by provincially regulated law enforcement agencies; and
- require each provincially regulated law enforcement agency:
  - to implement a "sign out" policy whenever a conducted energy weapon and/or a probe cartridge is issued to an officer;
  - to designate a specific employee to download the data from every conducted energy weapon at least once every month (matching the data relating to each deployment against the related incident report), and to report any discrepancies to that employee's supervisor;
  - to review the use of conducted energy weapons by its own officers at least quarterly, to determine compliance with policy; and
  - to report at least annually, to the responsible provincial minister, and in the case of a municipal police department to the police board, on the agency's use of its conducted energy weapons.

Corrections Branch Adult Custody Division utilizes a business intelligence (BI) system that electronically captures and records a provincial incident form that details when a conducted energy weapon is authorized for use. Through this BI system, the Adult Custody Division has the ability to meet the analysis requirements noted in Part 7 of the Report. Reports are submitted to the warden or designate for review prior to being submitted to Corrections Branch headquarters. The headquarters analyst, provincial director and assistant deputy minister review the reports on a case-by-case basis. Adult Custody Division will comply with the use of a conducted energy weapon incident report and electronic reporting requirements and analysis developed by the Province. Since April 1, 2003, reports on the use of CEW's have been submitted to the provincial director, Adult Custody Division and the assistant deputy minister, Corrections Branch for review..

Adult Custody Division policy section 1.4.2 has been updated to include a requirement for correctional centres to maintain a sign-out form to record each occasion that a conducted energy weapon is authorized for use and to record regularly conducted spark tests.

Adult Custody Division policy section 1.4.9 has been updated to include a requirement for the warden or designate to assign a staff member to download the data from every conducted energy weapon at least once every month and to report any discrepancies to the warden or designate. Noted discrepancies are forwarded to the Adult Custody Division provincial director.

The designated headquarters analyst conducts quarterly reviews of conducted energy weapon use to ensure compliance with policy.

Annual reviews will be conducted according to provincial standards to account for the use of conducted energy weapons.

Further research

17. I recommend that the Minister of Public Safety and Solicitor General encourage the minister's federal, provincial, and territorial counterparts to develop and fund a national research program for conducted energy weapons that will promote independent, science-based, and peer-reviewed research that attaches priority to:
    - quantifying the medical risks associated with conducted energy weapon use;
    - identifying the highest-risk subjects;
    - identifying the highest-risk external circumstances; and
    - developing recommendations for best practices, including but not limited to:
        - deployments in probe mode across the subject's chest;
        - multiple deployments; and
        - emotionally disturbed people.

Since 2008, B.C. has co-chaired a Federal-Provincial-Territorial working group on CEWs. The group has worked with Public Safety Canada to set research priorities regarding CEW research. Public Safety Canada as well as Defence Research and Development Canada (DRDC) of the Department of National Defence have collaborated on the Conducted Energy Weapons Strategic Initiative (CEWSI). The initiative includes research on the physiological impacts of CEWs. The Canadian Police Research Centre has allocated $1.8 million in funding over three fiscal years (2010/11 to 2012/13) to advance this work.

Specifically, this research includes the convening of a medical panel to report on the state of research regarding the physiological effects of CEWs and the identification of proposed areas for further research. DRDC asked the Canadian Academy of Health Sciences (CAHS) to conduct an independent, evidence-based assessment of the state of scientific knowledge regarding the medical and physiological impacts of conducted energy weapons. The Council of Canadian Academies will be working collaboratively with CAHS on this science-based assessment. The assessment will examine existing gaps in the current state of knowledge, and identify research needed to close any such gaps.

Corrections Branch will comply with any recommendations of the working group.

Future review

18. I recommend that the *Police Act* be amended to require that a special committee of the Legislative Assembly, or an individual appointed by the Legislative Assembly, begin a comprehensive review of conducted energy weapons within three years after this Report is made public and submit to the Legislative Assembly, within one year after beginning the review, a report that includes, but is not necessarily limited to:
    - the extent to which the recommendations contained in this Report have been implemented;
    - new information about the medical risks associated with the use of conducted energy weapons, including new models of weapons that have become available since this Report was written; and

- recommendations relating to the circumstances in which it is appropriate to use conducted energy weapons, and to training of officers in the use of such weapons.

The Police Act was amended effective June 3, 2010, to address this recommendation. Section 40.1 was added and requires that a special committee of the Legislative Assembly be appointed before December 31, 2012, to conduct a review of: (i) the implementation of Braidwood's recommendations respecting the use of CEWs by officers and the training of officers in the use of CEWs (see section 40.1(2)(a)); and (ii) the scientific research into the medical risks associated with CEW use (see section 40.1(2)(b))

Corrections Branch actions will be guided by the outcome of work being led by Police Services.

RCMP compliance with provincial regulation

19. I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, policies, and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.

This recommendation is outside the Corrections Branch's scope of authority.

Appendix C: BC Sheriff Service Division's Responses to Braidwood Commission Recommendations

BRAIDWOOD RECOMMENDATION	RESPONSE
1. I recommend that officers of provincially regulated law enforcement agencies be authorized to deploy a conducted energy weapon only in relation to enforcement of a federal criminal law.	Effective July 23, 2009 the Solicitor General directed all sheriffs in BC to severely restrict the use of CEWs in accordance with the Braidwood recommendations. Prior to that directive, in November 2008, BC Sheriff Service (BCSS) amended its policy at section 4.5.1c regarding the deployment of a CEW from use against an "active resister or assailant" to use against "aggressive combative subjects", closer to the meaning of "assaultive" individuals. In December 2009, sheriff policy was amended at sections 4.5.2 a and b. The threshold established in new policy (i.e. a subject is causing bodily harm to himself/herself or others or the subject's behaviour will imminently cause bodily harm to himself/herself or others) precluded CEWs from being used other than in relation to the enforcement of a federal criminal law.
2. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon unless the subject's behaviour meets one of the following thresholds: • the subject is causing bodily harm; or • the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm.	Refer to response to Recommendation 1.

BRAIDWOOD RECOMMENDATION	RESPONSE
3. I recommend that, even if the threshold set out in Recommendation 2 is met, an officer be prohibited from deploying a conducted energy weapon unless the officer is satisfied, on reasonable grounds, that: • no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and • de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.	Effective July 23, 2009 the Solicitor General directed all sheriffs in BC to severely restrict the use of CEWs in accordance with the Braidwood recommendations. Prior to this directive, in November 2008, sheriff policy provided at section 4.5.1c that "A CEW is intended to be used against an aggressive combative subject, where other forms of control or weapons would be ineffective or inappropriate under the circumstances." With the establishment of the police standards, this additional behaviour threshold for use of a CEW as set out in the Braidwood Recommendations was added to sheriff policy at section 4.5.2 c i. and ii.
4. I recommend that the Ministry of Public Safety and Solicitor General approve a curriculum for crisis intervention training comparable to that recommended by presenters at our public forums, and require: • that it be incorporated without delay in recruit training for officers of provincially regulated law enforcement agencies; and • that all currently serving officers of provincially regulated law enforcement agencies satisfactorily complete the training within a time frame established by the ministry.	With the establishment of the police standards, sheriff policy was amended at section 4.5.14 setting out the requirement for mandatory CID training for all sheriffs.
5. I recommend that officers of provincially regulated law enforcement agencies, when dealing with emotionally disturbed people, be required to use de-escalation and/or crisis techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.	Effective July 23, 2009 the Solicitor General directed all sheriffs in BC to severely restrict the use of CEWs in accordance with the Braidwood recommendations. With the establishment of the police standards, sheriff policy was amended at section 4.5.2 c i. and ii.

BRAIDWOOD RECOMMENDATION	RESPONSE
6. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon in the case of subject self-harm unless: • the subject is causing bodily harm to himself or herself; or • the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm to himself or herself.	Effective July 23, 2009 the Solicitor General directed all sheriffs in BC to severely restrict the use of CEWs in accordance with the Braidwood recommendations. As noted in Recommendation 1, in December 2009, sheriff policy was amended at section 4.5.2b to include the enhanced threshold for use regarding subjects causing self harm.
7. I recommend that officers of provincially regulated law enforcement agencies be prohibited from discharging an electrical current from a conducted energy weapon on a subject for longer than five seconds, unless the officer is satisfied, on reasonable grounds, that: • the five-second discharge was not effective in eliminating the risk of bodily harm; and • a further discharge will be effective in eliminating the risk of bodily harm.	Effective July 23, 2009 the Solicitor General directed all sheriffs in BC to severely restrict the use of CEWs in accordance with the Braidwood recommendations. Prior to that directive, in November 2008 sheriff policy provided in section 4.5.5c that CEW "should not be cycled repeatedly, unless situational factors dictate otherwise." In December 2009, sheriff policy was amended at section 4.5.6e that an electrical discharge from a CEW will last no longer than 5 seconds unless the 5 second discharge was not effective in eliminating the risk of bodily harm and a further discharge will be effective in eliminating the risk of bodily harm consistent with the Braidwood recommendation.

BRAIDWOOD RECOMMENDATION	RESPONSE

8. I recommend that paramedic assistance be requested in every medically high-risk situation, preferably before deployment of a conducted energy weapon or, if that is not feasible, then as soon as practicable thereafter. Medically high-risk situations include, but are not limited to:
• deployment in probe mode across the subject's chest;
• deployment in probe mode for longer than five seconds;
• deployment in any mode against:
  • an emotionally disturbed person;
  • an elderly person;
  • a person who the office has reason to believe is pregnant; or
  • a person who the office has reason to believe has a medical condition that may be worsened because of the deployment (e.g., heart disease, implanted pacemaker or defibrillator, etc.)
	Effective July 23, 2009 the Solicitor General directed all sheriffs in BC to severely restrict the use of CEWs in accordance with the Braidwood recommendations.
	
	Pre deployment
	In November 2008, sheriff policy was amended at section 4.5.5b that prior to all CEW usages that "When time and circumstances permit, BC Ambulance Services (BCAS) should be advised and requested to "Standby" prior to a CEW deployment, by calling 911 or the appropriate local emergency number for Ambulance Service in your area."
	
	In January 2012, section 4.5.6c of the policy was amended by replacing the word "should" with the word "must".
	
	Post discharge
	In November 2008, sheriff policy was amended at section 4.5.6a to provide that "In the event that a CEW contact stun or probe deployment occurs the following procedures will be followed: As soon as possible, the designated *(CEW)* operator will request the attendance of BCAS through 911."
	
	Sheriff policy does not differentiate between medically high-risk situations and non- medically high-risk situations with respect to contacting paramedic assistance. This assistance is required for all CEW discharges.

9. I recommend that whenever a conducted energy weapon is assigned to an officer of a provincially regulated law enforcement agency, that the officer also have an automated external defibrillator readily available for use.	With the establishment of the police standard regarding AED response, sheriff policy was amended at sections 4.5.6b and 4.5.16c. (Note: The police standard developed regarding the deployment of AEDs for rural and urban police forces was adjusted in sheriff policy to align with where sheriff performed their responsibilities.)

BRAIDWOOD RECOMMENDATION	RESPONSE
10. I recommend that the provincial government set province-wide standards relating to conducted energy weapons, including, but not necessarily limited to: • which conducted energy weapon models are approved for use; • the circumstances in which a conducted energy weapon may, or must not, be used; • qualifications to begin training as an operator, instructor, or master trainer; • the curriculum for operator, instructor, and master instructor training programs, including content, duration, pass/fail level, remedial training, and re-certification; • mandatory reporting of each conducted energy weapon use, including what information must be reported and in what form; and • periodic province-wide analysis of usage reports, with mechanisms to ensure that the results of such analysis inform policy developments and training.	With the establishment of the police standards, sheriff policy was amended at sections: • 4.5.2 (use) • 4.5.6 (use) • 4.5.7 (use) • 4.5.8 (reporting) • 4.5.9 (monitoring and analysis) • 4.5.10 (use) • 4.5.13 (training) • 4.5.14 (training)
11. I recommend that the Police Academy be responsible for training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, as an integral component of use-of-force training generally, and that training be conducted in accordance with the policies established by the provincial government, taking into consideration the medical risks discussed in this Report.	With the establishment of the police standards, sheriff policy was amended at section 4.5.13 with regard to training in the use of CEWs.

BRAIDWOOD RECOMMENDATION	RESPONSE
12. I recommend that the province's standards relating to the curriculum for operator, instructor, and master instructor training and re-training prohibit a trainer's or trainee's exposure to the electrical current of a conducted energy weapon.	Effective July 23, 2009, the Solicitor General's directive prohibited sheriff trainer's and trainee's exposure to the electrical current of a CEW. In December 2009, sheriff policy was amended at section 4.5.12a setting out "Trainers and trainees will not be subjected to the CEW under any circumstances." With the establishment of police standards, the policy at section 4.5.13f was re-phrased.
13. I recommend that the Attorney General ask the federal minister responsible for administration of the *Hazardous Products Act*: • to add conducted energy weapons to the schedule of restricted products under that Act; and • to make regulations prescribing the circumstances and conditions under which weapons may be imported into, and sold in, Canada.	BCSS response is not required.
14. I recommend that every conducted energy weapon used by officers of provincially regulated law enforcement agencies be periodically tested for electrical output, according to a testing protocol approved by an independent body and according to a schedule established by the Ministry of Public Safety and Solicitor General, and that the test include, but not necessarily be limited to: • the number of pulses per second; • the duration of each pulse; and • the maximum current during each pulse.	In December 2008, the Solicitor General directed that all CEWs acquired by police, sheriffs and correctional officers prior to January 1, 2006 be pulled from service and submitted for testing. Testing on sheriffs' CEWs was completed by April 2009. Sheriffs' CEWs acquired after January 1, 2006 were pulled from service in May 2009 for testing. This second group of sheriffs' CEWs were not tested but instead replaced with the X-26 model in 2010. With the establishment of the police standards, sheriff policy was amended at section 4.5.15 with regard to testing protocols.

BRAIDWOOD RECOMMENDATION	RESPONSE
15. I recommend that whenever there is a serious injury or death proximate to use of a conducted energy weapon by an officer of a provincially regulated enforcement agency, the weapon be withdrawn from service and its electrical output be tested in accordance with, and for the matters referred to in, Recommendation 14.	Effective July 23, 2009 the Solicitor General directed all police, sheriffs and correctional officers in BC to immediately require that all CEWs involved in a serious incident be, without delay, removed from service and tested. With the establishment of the police standards, sheriff policy was amended at section 4.5.15 a iii. and 4.5.15c.
16. I recommend that the provincial Ministry of Public Safety and Solicitor General, without delay: • develop a province-wide conducted energy weapon incident report form that will capture enough information to permit the type of analysis undertaken by this Commission, as reported in Part 7 of this Report; • require that the report form be completed whenever an officer of a provincially regulated law enforcement agency deploys a conducted energy weapon, even if deployment is limited to display mode only; • develop a province-wide electronic system for the reporting and analysis of conducted energy weapon incidents; • require that every completed report form be forwarded without delay to the ministry, and that the data on the report form be entered into the province-wide electronic system; • review reported incidents, at least quarterly, for the purposes of informing the development of policy and training; • publish, at least annually, a detailed report on conducted energy weapon usage by provincially regulated law enforcement agencies; and • require each provincially regulated law enforcement agency: • to implement a "sign out" policy	Since 2002, BC Sheriff Service has had in place a province-wide system for the central collection and analysis of CEW Deployment Reports prepared by sheriffs. The reports are in a standard format and are prepared for all usages, including verbal warnings. Also since the first use of the CEW in the Division, a CEW Assignment Log has been required for signing out CEWs. With the establishment of the police standards, sheriff policy was amended at section 4.5.9 with regard to quarterly reviews of CEW Deployment reports and annual reports on CEW usage. BC Sheriff Service will participate in the future development of any inter agency, province-wide standardized report form and common database.

BRAIDWOOD RECOMMENDATION	RESPONSE
whenever a conducted energy weapon and/or probe cartridge is issued to an officer; • to designated a specific employee to download the data from every conducted energy weapon at least once every month (matching the data related to each deployment against the regulated incident report), and to report any discrepancies to that employee's supervisor; • to review the use of conducted energy weapons by its own officers at least quarterly, to determine compliance with policy; and • to report at least annually, to the responsible provincial minister, and in the case of a municipal police department to the police board, on the agency's use of its conducted energy weapons.	

17. I recommend that the Minister of Public Safety and Solicitor General encourage the minister's federal, provincial, and territorial counterparts to develop and fund a national research program for conducted energy weapons that will promote independent, science-based, and peer-reviewed research that attaches priority to:
• quantifying the medical risks associated with conducted energy weapon use;
• identifying the highest-risk subjects;
• identifying the highest-risk external circumstances; and
• developing recommendations for best practices, including but not limited to:
  • deployments in probe mode across the subject's chest;
  • multiple deployments; and
  • emotionally disturbed people.
	BCSS response is not required.

BRAIDWOOD RECOMMENDATION	RESPONSE
18. I recommend that the Police Act be amended to require that a special committee of the Legislative Assembly, or an individual appointed by the Legislative Assembly, begin a comprehensive review of conducted energy weapons within three years after this Report is made public and submit to the Legislative Assembly, within one year after beginning the review, a report that includes, but is not necessarily limited to: • the extent to which the recommendations contained in this Report have been implemented; • new information about the medical risks associated with the use of conducted energy weapons, including new models of weapons that have become available since this Report was written; and • recommendations relating to the circumstances in which it is appropriate to use conducted energy weapons, and to training of officers in the use of such weapons.	BCSS response is not required.
19. I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, polices, and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.	BCSS response is not required.

Appendix D: RCMP "E" Division – British Columbia: Responses to Braidwood Recommendations

BRAIDWOOD RECOMMENDATION	RESPONSE
1. I recommend that officers of provincially regulated law enforcement agencies be authorized to deploy a conducted energy weapon only in relation to enforcement of a federal criminal law.	The only problematic area is with persons being dealt with /arrested under the Mental Health Act as this is a Provincial Act.
2. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon unless the subject's behaviour meets one of the following thresholds: • the subject is causing bodily harm or • the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm.	Changes to RCMP CEW policy published on April 29, 2010 include the requirement that the subject is causing bodily harm or the member believes on reasonable grounds that the subject will imminently cause bodily harm, using Section 2 of the Criminal Code as the definition of bodily harm.
3. I recommend that, even if the threshold set out in Recommendation 2 is met, an officer be prohibited from deploying a conducted energy weapon unless the officer is satisfied, on reasonable grounds, that: • no lesser force option has been, or will be, effective in eliminating the risk of bodily harm; and • de-escalation and/or crisis intervention techniques have not been or will not be effective in eliminating the risk of bodily harm.	Changes to RCMP CEW policy published on April 29, 2010 include the requirement to use de-escalation techniques and/or crisis intervention techniques when tactically feasible.

BRAIDWOOD RECOMMENDATION	RESPONSE
4. I recommend that the Ministry of Public Safety and Solicitor General approve a curriculum for crisis intervention training comparable to that recommended by presenters at our public forums, and require: • that it be incorporated without delay in recruit training for officers of provincially regulated law enforcement agencies; and • that all currently serving officers of provincially regulated law enforcement agencies satisfactorily complete the training within a time frame established by the ministry.	Pacific Regional Training Centre finalized its Crisis Intervention and De-escalation (CID) course, this course is available online to RCMP members. A review of the course content by National Use of Force found that the course followed tactics, officer safety and adhered to policy. As of June 2009, CEW operators must re-certify annually. All new participants must complete the prerequisite on line training prior to the new 3 day CEW course. In 2011 the CEW instructor course was re-written. Candidates must pass written, practical and scenario based training tests over a 5 day onsite training course.
5. I recommend that officers of provincially regulated law enforcement agencies, when dealing with emotionally disturbed people, be required to use de-escalation and/or crisis intervention techniques before deploying a conducted energy weapon, unless they are satisfied, on reasonable grounds, that such techniques will not be effective in eliminating the risk of bodily harm.	Changes to RCMP CEW policy published on April 29, 2010 include the requirement to use de-escalation techniques and/or crisis intervention techniques when tactically feasible.
6. I recommend that officers of provincially regulated law enforcement agencies be prohibited from deploying a conducted energy weapon in the case of subject self-harm unless: • the subject is causing bodily harm to himself or herself; or • the officer is satisfied, on reasonable grounds, that the subject's behaviour will imminently cause bodily harm to himself or herself.	Changes to RCMP CEW policy published on April 29, 2010 include the requirement that the subject is causing bodily harm or the member believes on reasonable grounds that the subject will imminently cause bodily harm, using Section 2 of the Criminal Code as the definition of bodily harm.

BRAIDWOOD RECOMMENDATION	RESPONSE
7. I recommend that officers of provincially regulated law enforcement agencies be prohibited from discharging an electrical current from a conducted energy weapon on a subject for longer than five seconds, unless the officer is satisfied, on reasonable grounds, that: • the five-second discharge was not effective in eliminating the risk of bodily harm; and • a further discharge will be effective in eliminating the risk of bodily harm.	Changes to RCMP CEW policy published on April 29, 2010 include the statement: Multiple deployment or continuous cycling of the CEW may be hazardous to a subject. Unless situational factors dictate otherwise, do not cycle the CEW more than 5 seconds on a subject and avoid multiple deployments.
8. I recommend that paramedic assistance be requested in every medically high-risk situation, preferably before deployment of a conducted energy weapon or, if that is not feasible, then as soon as practicable thereafter. Medically high-risk situations include, but are not limited to: • deployment in probe mode across the subject's chest • deployment in probe mode for longer than five seconds • deployment in any mode against: an emotionally disturbed person, an elderly person, a person who the officer has reason to believe it pregnant or a person who the officer has reason to believe has a medical condition that may be worsened because of the deployment (eg heart disease, implanted pacemaker or defibrillator, etc)	Changes to RCMP CEW policy published on April 29, 2010 defines 'medically high risk situations' and 'acutely agitated and delirious persons' and goes on to state: In medically high risk situations, request medical assistance prior to using the CEW, where possible. If a CEW deployment was necessary prior to the arrival of medical assistance, obtain medical assistance as soon as possible. Current policy also advises that acutely agitated and delirious persons may be at a high risk of death and when dealing with these persons, whenever possible request the assistance of emergency medical services and if possible bring medical assistance to the scene.
9. I recommend that whenever a conducted energy weapon is assigned to an officer of a provincially regulated law enforcement agency, that the officer also have an automated external defibrillator readily available for use.	In British Columbia the RCMP is complying with the Provincial Policing Standards. All conducted energy weapon operators when on duty be equipped with an Automated External Defibrillator.

BRAIDWOOD RECOMMENDATION	RESPONSE
10. I recommend that the provincial government set province-wide standards relating to conducted energy weapons, including, but not necessarily limited to: • which conducted energy weapon models are approved for use • the circumstances in which a conducted energy weapon may, or must not, be used; • qualifications to begin training as an operator, instructor, or master trainer; • the curriculum for operator, instructor, or master instructor training programs, including content, duration, pass/fail level, remedial training and re-certification; • mandatory reporting of each conducted energy weapon use, including what information must be reported and in what form; and • periodic province-wide analysis of usage reports, with mechanisms to ensure that the results of such analysis inform policy development and training.	The RCMP is compliant on having policy and/or training on: • the CEW models approved for use • the circumstances in which a CEW may be used • mandatory reporting of CEW use • periodic analysis of CEW usage reports The RCMP revised all course training standards and lesson plans related to CEW training. The CEW user and user recertification courses were revised. On January 30, 2012 the British Columbia Conducted Energy Weapon (CEW) Operator course and the BC Crisis Intervention and De-escalation (CID) course were officially launched.
11. I recommend that the Police Academy be responsible for training officers of provincially regulated law enforcement agencies in the use of conducted energy weapons, as an integral component of use-of-force training generally, and that training be conducted in accordance with the policies established by the provincial government, taking into consideration the medical risks discussed in this report.	CEW training is taught within the divisions for the RCMP. At Depot, Cadets receive a familiarization to the CEW, however this does not certify them to be users of the CEW.
12. I recommend that the province's standards relating to the curriculum for operator, instructor and master instructor training and re-training prohibit a trainer's or trainee's exposure to the electrical current of a conducted energy weapon.	This is related to BC prohibiting exposure to voluntary exposure, members in BC are not required to submit or volunteer for exposure to the CEW. No changes are being made to current National CEW policy and training which allows for the voluntary exposure to the CEW during the user and instructor courses.

BRAIDWOOD RECOMMENDATION	RESPONSE
13. I recommend that the Attorney General ask the federal minister responsible for the administration of the Hazardous Products Act: • to add conducted energy weapons to the schedule of restricted products under that Act; and • to make regulations prescribing the circumstances and conditions under which such weapons may be imported into, and sold in, Canada.	Beyond the scope of the RCMP. Current CEW policy defines the CEW as a prohibited firearm and advises it must be stored as such:
14. I recommend that every conducted energy weapon used by officers of provincially regulated law enforcement agencies be periodically tested for electrical output, according to a testing protocol approved by an independent body and according to a schedule established by the Ministry of Public Safety and Solicitor General, and that the test include, but not necessarily be limited to: • the number of pulses per second; • the duration of each pulse; and • the maximum current during each pulse.	The RCMP in British Columbia has implemented policy directing that all conducted weapons be independently tested annually. Prior to being sent for testing all data is downloaded.
15. I recommend that whenever there is a serious injury or death proximate to use of a conducted energy weapon by an officer of a provincially regulated law enforcement agency, the weapon be withdrawn from service and its electrical output be tested in accordance with, and for the matters referred to in, recommendation 14.	Any conducted energy weapon that tests outside of specifications is removed from service and destroyed. Conducted energy weapons are tested if there is a malfunction during a deployment, if injury requiring medical treatment or death proximal to the deployment occurs or before a new conducted weapon is placed into service.

BRAIDWOOD RECOMMENDATION	RESPONSE
16. I recommend that the provincial Ministry of Public Safety and Solicitor General, without delay: A. develop a province-wide conducted energy weapon incident report form that will capture enough information to permit the type of analysis undertaken by this Commission, as reported in part 7 of this report; B. require that the report form be completed whenever an officer of a provincially regulated law enforcement agency deploys a conducted energy weapon, even if deployment is limited to display mode only; C. develop a province-wide electronic system for the reporting and analysis of conducted energy weapon incidents; D. require that every completed report form be forwarded without delay to the ministry, and that the data on the report form be entered into the province-wide electronic system E. review reported incidents, at least quarterly, for the purposes of informing the development of policy and training; F. publish, at least annually, a detailed report on conducted energy weapon usage by provincially regulated law enforcement agencies; and G. require each provincially regulated law enforcement agency: G.i to implement a "sign out" policy whenever a conducted energy weapon and/or a probe cartridge is issued to an officer; G.ii to designate a specific employee to download the data from every conducted energy weapon at least once every month (matching the data relating to each deployment against the related incident report), and to report any discrepancies to that employee's supervisor; G.iii to review the use of conducted energy weapons by its own officers at least quarterly, to determine compliance with policy; and G.iv to report at least annually, to the responsible provincial minister, and in the case of a municipal police department to the police board, on the agency's use of its conducted energy weapons.	Subject Behaviour / Officer Response Reporting (SB/OR) was implemented across the RCMP on January 1, 2010. Subject Behaviour/Officer Response (SB/OR) reporting is a standardized method of recording the use of intervention options (including CEW) and describes not only the subject's behaviour but also the totality of the circumstances surrounding an incident. SB/OR reporting enhances police accountability and following thorough analysis in identifying trends and if needed, modifications to training and or policy. In addition to a supervisor review of an SB/OR report, policy also requires that Commanders and Divisional Use of Force Coordinators, or their delegate and National Criminal Operations review all SB/OR reports with CEW use for adherence to directives and policy. Policy requires that Commanders maintain a control log for each conducted energy weapon assigned to the unit by recording the time, date and name of each member who possesses a conducted energy weapon. Currently we require annual downloads and downloads after each deployment. If a conducted energy weapon is used at an incident, the weapon must be removed from service and have an operational data download conducted. All data is stored either for minimum of two years or longer as dictated by the retention of the operational record of the incident of which the deployment was involved. The RCMP submits conducted energy weapon usage reports to the Director of Policing annually or as required.

BRAIDWOOD RECOMMENDATION	RESPONSE
17. I recommend that the Minister of Public Safety and Solicitor General encourage the minister's federal, provincial and territorial counterparts to develop and fund a national research program for conducted energy weapons that will promote independent, science-based, and peer-reviewed research that attaches priority to: • quantifying the medical risks associated with conducted energy weapon use; • identifying the highest-risk subjects; • identifying the highest-risk external circumstances; and • developing recommendations for best practices, including, but not limited to: deployments in probe mode across the subject's chest; multiple deployments; and emotionally disturbed people.	In order to remain objective and allow independent research to remain transparent, the RCMP does not directly run its own research. The RCMP has and will appropriately continue to participate indirectly in research studies when and as requested.
18. I recommend that the Police Act be amended to require that a special committee of the Legislative Assembly, or an individual appointed by the Legislative Assembly, begin a comprehensive review of conducted energy weapons within three years after this report is made public and submit to the Legislative Assembly, within one year after beginning the review, a report that includes, but is not necessarily limited to: • the extent to which the recommendations contained in this report have been implemented • new information about the medical risks associated with the use of conducted energy weapons, including new models of weapons that have become available since this report was written; and • recommendations relating to the circumstances in which it is appropriate to use conducted energy weapons, and to training of officers in the use of such weapons.	This is a recommendation that is directed to the province of British Columbia.

BRAIDWOOD RECOMMENDATION	RESPONSE
19. I recommend that, as a precondition to the Province of British Columbia entering into new policing agreements with the RCMP in 2012, the provincial Minister of Public Safety and Solicitor General require that the RCMP (in its capacity as the provincial police force) contractually agree to comply with the rules, policies and procedures respecting conducted energy weapons that are applicable to provincially regulated law enforcement agencies.	A new policing agreement was reached in March of 2012.